J. MANLY FOSTER
President Alabama State Bar Association
1918-1919

PROCEEDINGS

OF THE

Forty-Second Annual Meeting

OF THE

Alabama State Bar Association

HELD AT

Selma, Alabama

July 4 and 5

1919

SECRETARY'S NOTE.

In explanation of the fact that there is not a stenographic report of the discussion at the meeting of the Association, the Secretary thinks it proper to state that the stenographer who had been employed to report the minutes did not appear at the meeting, and the brief notes of the discussion were taken by a member of the Association as a matter of accommodation to the Secretary.

PROCEEDINGS

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July 4th and 5th, 1919.

The meeting of the Alabama State Bar Association, at its forty-second annual meeting, was opened at Selma, Alabama, on July 4th, 1919, at 10:30 A. M., with the President, Hon. J. Manly Foster, presiding.

Addresses of welcome were delivered to the Association by Hon. Louis Benish, Mayor of Selma, on behalf of the City and by Mr. Robert H. Mangum, on behalf of the members of the Dallas County Bar.

The President, in response, expressed the appreciation of the Association.

The President then delivered the address to the Association.

(Appendix.)

Hon. S. D. Weakley discussed certain features of the President's address; discussing the provisions of the State Prohibition Act relative to the confiscation of property used in violation of the Act; and also the effect of the adoption of the Susan B. Anthony Amendment to the Federal Constitution.

Mr. J. K. Dixon raised the point of order that the discussion of the President's address was out of order.

The President ruled that the discussion was in order.

Whereupon, the discussion by Judge Weakley was continued.

The report of the Treasurer was then read.

TREASURER'S REPORT.

Mr. President and Members of the Association:

The Treasurer submits the following report of the finances of the Association for the year ending July 1, 1919:

RECEIPTS.

To balance on hand at meeting July 12, 1918	$ 847 00
To cash received from annual dues	1650 00
To cash received from Department of Archives and History for 75 copies 1918 Proceedings	75 00
Total receipts	$2572 00

DISBURSEMENTS.

1918.			
July 13.	By cash.	Expenses at meeting	$ 2 50
July 15.	By cash.	Exchange Hotel, room for Hon. T. J. O'Donnell	5 10
July 15.	By cash.	Montgomery Advertiser, copies for Hon. T. J. O'Donnell	2 45
July 19.	By cash.	Woodruff Press, Letterheads	3 50
July 19.	By cash.	Fred Wall's draft reported by bank in error as paid	5 00
July 20.	By cash.	Expenses Hon. T. J. O'Donnell	170 65
July 20.	By cash.	Country Club, Luncheon to members	135 00
July 20.	By cash.	Music at Entertainment, Annual Address	8 00
Aug. 6.	By cash.	A. W. Brazelton, Stenographer at meeting	74 60
Aug. 8.	By cash.	Expenses to Birmingham	14 00
Nov. 29.	By cash.	Paragon Press, 600 copies Proceedings 1918 meeting and postage on copies distributed	608 60
1919.			
Feb. 24.	By cash.	Postage on notices of dues to members	10 00
Mch. 7.	By cash.	Paragon Press, notice of dues and envelopes	7 60
Apr. 29.	By cash.	Henry U. Sims, to refund expenses printing and distributing report Committee on Legislation, 1918	37 40
June 9.	By cash.	Paragon Press, Envelopes	3 10
June 20.	By cash.	Postage on programmes, 1919 meeting	5 00

June 23.	By cash.	Paragon Press, for badges	16 50
June 27.	By cash.	Paragon Press, Programmes 42nd meeting and envelopes	15 10
June 27.	By cash.	First National Bank, exchange on drafts drawn on members	6 50
June 27.	By cash.	Postage and telegrams during year	16 50
July 1.	By cash.	Secretary's salary to July 1, 1919	500 00
		Total disbursements	$1647 10
		The balance on hand is	924 90
			$2572 00

ALEXANDER TROY,
Treasurer.

Audited and approved July 3, 1919.
W. M. BLAKEY,
DAVIS M. STAKELY.
Sub-Committee of Executive Committee.

It was then moved that the report of the Treasurer be adopted, which motion was duly seconded and unanimously adopted.

The report of the Executive Committee, prepared by the Chairman, Wm. M. Blakey, Esq., was then read by Mr H. F. Reese, which report is as follows:

REPORT OF EXECUTIVE COMMITTEE.

Mr. President and Gentlemen of the Alabama State Bar Association:

Your Executive Committee begs leave to submit the following report:

As required by the by-laws of the Association, the Committee has held regular monthly meetings and duly disposed of the business that has come before it.

The books, accounts and vouchers of the Treasurer have been examined with care, and we find that all funds received by the Treasurer have been properly accounted for, and that his books have been correctly kept. The financial condition of the Association is, as usual, good.

At the last annual meeting of the Association, the invitation of the Selma Bar to hold the 1919 meeting in the City of Selma was accepted by the Association and the Committee, in accordance with the provisions of the By-Laws of the Association, fixed the time of holding the

meeting on Friday and Saturday, the 4th and 5th of July, 1919.

Your Committee has received from various organizations representing different legal and social problems throughout the country applications for members of such associations or organizations to deliver addresses before the Association, but in accordance with the time honored custom of this association, all such invitations have been declined by the Committee.

The members of the Selma Bar have been very active in preparing for the entertainment of the members of the Association, and have prepared a very delightful program, including an excursion to Cahaba, the former State Capital, and a place which holds much interest for the people of Alabama.

Printed programs giving in detail the various subjects to be discussed before the Association, and also the various entertainments provided for the Association, have been mailed to each member of the Association and will be distributed at the meeting.

Various members of the Association have been invited by the Committee to read papers at this meeting, and the names of those who have accepted will be found on the program.

The annual address will be delivered by Hon. Emmet O'Neal, his subject being, "The Susan B. Anthony Amendment. Effect of its Ratification on the Rights of the States to Regulate and Control Suffrage and Elections."

Since our meeting in 1918, the Association has lost by death the following members whose loss is deeply felt:

N. W. Trimble, of Birmingham,
A. H. Alston, of Clayton,
R. C. Hunt, of Fort Payne,
F. M. Lowe, of Birmingham,
Goston Gunter, of Montgomery.
John H. Miller, of Birmingham.
P. H. Pitts, of Selma.

Memorial sketches of these members will be published in the proceedings of the Association.

The Executive Committee, acting under the authority conferred upon them by the Constitution and By-Laws have elected to membership in the Association, since the last meeting, the following named gentlemen, who are members of the Bar in their respective localities:

Herbert U. Feibelman, Mobile.
W. Howell Morrow, Wetumpka.
Douglass Clark, Montgomery.
F. M. deGraffenreid, Seale.
H. D. Jones, Russellville.
S. F. Hobbs, Selma.
J. Lister Hill, Montgomery.
F. M. Johnston, Mobile.
C. H. Roquemore, Montgomery.

Respectfully submitted,
W. M. Blakey, Chairman.
H. F. Reese,
B. deG. Waddell,
Davis F. Stakely,
Alex. Troy, Ex-Off.

Upon motion, duly made and seconded, the report as read, was adopted.

The report of the Central Council, by the Chairman, Z. T. Rudulph, Esq., was then read by Hon. W. C. Davis, of Jasper, which report was as follows:

REPORT OF THE CENTRAL COUNCIL.

Mr. President and Members of the Association:

Your Central Council is gratified to be able to report that there have been fewer complaints of misconduct of lawyers filed with your Council during the past year, than any one of the past five years your Chairman has been a member of this Council.

There have been only three formal complaints, charging serious offenses, supported by affidavits, as required by

the rules of the Council, made to us during the past year. The first was requested withdrawn by the complainant, as the attorney rectified the offense as far as possible, immediately on notification of the filing of the complaint; the offender in the second complaint, an ex-solicitor is reported to have left the State and no service has been had and the charge is still pending; the last case is that of the conviction in the U. S. Court of Selma, Alabama, and reported by the U. S. District Attorney, Alex. D. Pitts. As in similar cases, your Council expects to secure the surrender of the license to practice law of this offender, and so avoid further humiliation, annoyance and expense, but the case is still pending.

Several complaints for failing to remit collections have been made to your Council, and in accordance with our rules and precedent, a warning has been written the negligent attorney, and we are glad to state that in each case, the matter has been immediately righted and complainants expressed satisfaction and requested withdrawal; while this course may be considered as making the Central Council merely a collecting agency, from careless lawyers, in no case do we regret the slight trouble as compared to the great humiliation that might have been caused to good, but careless lawyers.

We hope the few complaints filed against our brother lawyers during the past year is the beginning of an era of more moral and ethical practice by our profession in the future; and the lawyer will occupy the position of respect, honor, confidence and admiration of which we have all heard so much about in the past and is earnestly to be desired.

Respectfully submitted,

Z. T. Rudulph, Chairman.

This report was discussed by James M. Miller, Esq., of Gadsden.

Upon motion, duly made and seconded, the report was unanimously adopted.

John W. Lapsley, Esq., read a paper upon the subject of "Some Needed Judicial and Legislative Reforms as Seen by a Young Lawyer."

(Appendix.)

On motion of H. U. Sims, Esq., consideration of this paper was postponed until the reading of the report by the Committee on Judicial Administration and Remedial Procedure.

John McKinley, Esq., the Chairman, then read a report of the Committee on Jurisprudence and Law Reform.

(Appendix.)

The foregoing report was discussed by Messrs. A. D. Pitts, H. U. Sims and H. F. Reese.

Upon motion, duly made and seconded, the report was adopted.

H. F. Reese, Esq., then announced that complimentary tickets to the picture show were on hand for the members of the Association, and that the Municipal Swimming Pool was open to the members of the Association without charge.

Hon. F. Loyd Tate nominated the following gentlemen as members of the Association: J. Sanford Mullins and George F. Smoot, both of Wetumpka, who were elected, the Secretary casting the ballot of the Association.

The President then announced to any members contemplating attending the meeting of the American Bar Association, that the place of meeting had been changed from New London, Conn., to Boston, Mass., September 2nd.

The President: The next on the program is the report of the Committee on Judicial Administration and Remedial Procedure, by the Chairman, Frank Dominick, Esq.

Mr. Dominick: I submitted this report to the Committee and it is approved by a majority of the members. Mr. Dixon stated to me that he did not approve of any of it

and therefore did not answer my letter. The majority of the Committee, however, approves the report."

The report was then read.

(Appendix.)

Mr. Dominick then read a resolution relative to the number of Judges in Jefferson County, and as to the needs of Jefferson County in having ten Judges as now provided by law, and sought the approval of the Association of the resolution, and asked that the Secretary be instructed to communicate to the proper Committee of the Legislature the action of the Association in regard to the matter.

After an extended discussion of the matter by Messrs. Sims, Dixon, Nathan, Miller and Davis, Mr. Dominick asked to withdraw the resolution.

On motion, seconded and adopted, the report of the Commitee read by Mr. Dominick was received and filed.

Sam C. Jenkins, Esq., then read a paper on the subject of "Liberty vs. The Heresy of Propaganda."

(Appendix.)

Mr. Reese moved that the thanks of the Association be extended Mr. Jenkins for his able and timely paper.

The motion was seconded and unanimously adopted, and the thanks of the Association were extended by the President.

The report of the Committee on Legal Education and Admission to the Bar was then read by the Chairman, H. F. Reese, Esq.

(Appendix.)

This report was discussed by H. U. Sims, Esq.

Mr. Sims thereupon made the following motion:

That it is the concensus of the Alabama State Bar Association that it would improve the standards of admission to the Bar if the moral character of applicants were examined by a Committee of the State Bar Association before

being allowed to take the examination before the State Board of Examiners.

This motion was discussed by Messrs. A. D. Pitts, H. F. Reese, Judge Ferguson, Judge Nathan, Frank Dominick, J. Q. Smith, Judge Garrison and F. L. Tate.

Judge Garrison moved to table the motion, and the motion to table was carried.

Upon motion the paper, prepared by Hon. H. C. Wilkinson, was passed over until Saturday, July 5th.

The Secretary announced that he had been requested by Fred S. Ball, Esq., Chairman, to read for him the report of the Committee on Legislation.

(Appendix.)

It was then moved and adopted, that the report be received and filed.

The President announced that this concluded the program for the day.

J. K. Dixon, Esq., moved that the order of business be changed and that the Association proceed to elect a President for the ensuing year at this time. The motion was seconded and adopted.

Thereupon, Hon. A. D. Pitts nominated J. T. Stokely, Esq., of Birmingham, as President.

Mr. Dixon moved that nominations be closed, and that the Secretary be directed to cast the ballot of the Association for Mr. Stokely as President of the Association for the ensuing year. This motion was unanimously carried.

The Secretary: Mr. President, it affords me much pleasure to case the unanimous ballot of the Association for Hon. J. T. Stokely as the President of the Association for the ensuing year.

Hon. J. T. Stokely: I am deeply sensible of the honor which you have conferred upon me. I haven't any speech to make, but I want to say merely that the confidence and esteem of one's fellows—which your action evidences—

is the greatest reward that could come to a lawyer. It is hardly necessary for me to say that I shall do everything in my power during the coming year to advance the interests of the Association and the profession in Alabama. I thank you.

H. F. Reese, Esq., then moved the appointment of a Committee of five to recommend and report the next morning the nomination of the other officers for the ensuing year.

J. F. Thompson, Esq.: I move that Mr. Reese be directed to cast the ballot of the Association for the election of Col. Alex. Troy as Secretary and Treasurer of the Association for the coming year. The motion was unanimously adopted.

Mr. Reese: I take pleasure in casting the unanimous vote of the Association for Col. Alex. Troy as Secretary and Treasurer of the Association for the ensuing year.

Mr. Troy thanked the Association for the honor conferred upon him for the forty-third time, which he declared was totally unexpected.

A. D. Pitts, Esq.: "I move that a committee of five be appointed by the President to report tomorrow to the Association the names of five Vice-Presidents, five members of the Central Council, and five members of the Executive Commiteee." This motion was seconded and adopted.

The President thereupon appointed the following Committe for this purpose, viz: Hon. A. D. Pitts, Judge Ferguson, Judge Nathan, Judge Gardner and Judge Garrison, and requested the Committee to report tomorrow morning.

Judge Ferguson then stated that he would prefer not to be appointed on the Committeee, and the President appointed Hon. J. Q. Smith as a member of the Committee in place of Judge Ferguson.

Frank Stollenwerck, Esq., then offered the following resolution, and after discussing same, moved its adoption.

Be it resolved by the Alabama Bar Association, that it

is the sense of the Association that every endorsement be given the movement that the 17th of September, 1919, be celebrated as the anniversary of the adoption of the Constitution of the United States and be termed "Constitution Day."

Be it further resolved: That a committee be appointed by the President of the Association to co-operate with the State Director of the Campaign for the celebration of Constitution Day, said committee to be composed of five members.

Be it further resolved: That the Association endorses the movement to start in Alabama a systematic course of patriotic education to the end that our people receive more instruction in the ideals and purposes of the American Constitution and that greater significance be given to the dignity and privileges of American citizenship.

The motion was seconded and adopted.

The President then stated he had a communication from Dr. Partlow, Superintendent of the Alabama Insane Hospital, which, on motion of H. F. Reese, Esq., was referred to the Committee on Legal Education.

The meeting, on motion, was then adjourned until 10 o'clock A. M. Saturday.

The Association met at 10 A. M., Saturday, July 5th, 1919.

Hon. A. D. Pitts, as Chairman of the Committee appointed to make nominations, reported that the Committee had nominated for Vice-Presidents the following:

W. C. Davis, S. D. Weakley, W. H. Thomas, Henry McDaniel and E. J. Garrison.

He stated that Judge Garrison had been nominated, over his protest; and that they had nominated for Central Council the following:

Hugh Mallory, E. Perry Thomas, H. C. Wilkinson, J. F. Thompson and H. E. Gipson.

And for members of the Executive Committee, the following:

J. K. Dixon, F. S. Ball, B. P. Crum, S. A. Lynne and Alex. Troy, ex officio.

On motion of Mr. H. U. Sims, the report of the Committee was adopted and the Secretary cast the ballot of the Association for the nominees, whereupon the President declared them duly elected.

Mr. H. U. Sims asked unanimous consent to take from the table the resolution previously tabled, relating to the examination of applicants for admission to the bar. There being no objection, unanimous consent was granted.

Mr. Sims then stated, that after conferring with Judge Nathan and Mr. Reese, he desired to offer the following resolution, namely:

Resolved, That it is the duty of the Bar of Alabama to assume the responsibility of passing upon the moral and ethical standards of applicants for admission to its membership, and to that end the President is authorized to appoint a committee to prepare and submit to the legislature a bill relieving the courts of their present duty of investigating into the moral fitness of applicants for admission to the bar and imposing that duty upon a committee of the Bar Association of Alabama.

Judge Nathan: I think if it was referable to members of the bar, instead of this Association, it would be better.

Mr. Sims: I will so change the resolution.

Whereupon on motion, seconded, the resolution was adopted.

The President: The Chair announced that it was authorized on yesterday to appoint a Committee under the resolution of Mr. Stollenwerck to observe the 17th day of September, as Constitution Day, and the Chair appointed Messrs. Frank Stollenkerck, Judge Thomas, of Montgomery, M. H. Sims, of Talladega, and H. U. Sims, of Birmingham.

Mr. H. F. Reese, as Chairman of the Committee on Legal Education, to which the communication from Dr. Partlow was referred, reported as follows: Your Committee on Legal Education reports that it is obvious that the bill referred to is one having great merit; that while it is one having great merit, it is not one with which the Association ordinarily deals.

On motion of Mr. Pitts, seconded and adopted, the report of the Committee was received and filed.

Hon. S. D. Weakley asked the consent of the Association to present some resolutions.

In presenting the resolutions, Mr. Weakley said: "The resolutions do not originate with me but a consecrated Christian woman asked me to present the resolutions; they have been adopted by the State Bankers' Association, the Educational Committee, and the Tennessee Bankers' Association; they did not originate with me but I approve of them and I would like to present them." The resolutions are as follows:

INTERNATIONAL CONFERENCE FOR THE RELIEF OF THE JEWS.

WHEREAS, during many centuries, in various countries of the globe, the driven, wandering Jews have suffered terrible persecutions and massacres, sometimes at the hands of professedly Christian nations; and

WHEREAS, all right-thinking men, and especially Christians, should let their voice be heard for the justice, humanity, mercy, forgiveness and love of true Christianity, as taught by Jesus Christ, and

WHEREAS, the unsettled condition of Russia and other neighboring countries, where so large a part of the Jewish population of the world is to be found,—made it impossible for the General Peace Conference to deal at all completely or satisfactorily with the urgent and unusually complicated problems of the rights and liberties of the Jewish people; and

WHEREAS, all civilized nations of Christendom owe a very great and long-standing debt to the descendants of those Hebrew sages, prophets, teachers, and civil leaders, who under the hand of God played so important a role in leading the human race out of the darkness of barbarism toward the light of civilization; and

WHEREAS, the Hebrew writings during the centuries have held their rightful place of honor and reverence, as teachers of ourselves and our children in those civil and moral laws which make the foundation and framework of orderly society, and much more for their answers to the problems and needs of the spiritual life;

THEREFORE, in recognition of the long-standing debts of the nation at large to the Hebrew people, as well as the imperative calls of common humanity, and also, in order that we may keep faith with our sons who gave their blood in France and Flanders, for the great and small peoples of the world,

BE IT RESOLVED, That the Alabama State Bar Association do hereby respectfully memorialize our distinguished President, Woodrow Wilson and the Congress of the United States, as soon as deemed advisable, to intercede with the governments of Europe for an International Conference to consider the condition of the Jews (and of such other peoples as may be naturally and properly co-related in their interests, or because of geographical situation), and to adopt such measures as may be deemed wise for the relief of the Jews and other co-related peoples.

After reading the resolutions, Mr. Weakley said they are self-explanatory, and, as they seem to express the feelings of the Association, moved their adoption.

The following members took part in the discussion of the resolutions, namely: Messrs. H. U. Sims, J. K. Dixon, S. D. Weakley, and H. F. Reese. At the conclusion of which the Secretary remarked:

I am going to take great pleasure in voting for Judge

Weakley's resolutions, but I would like to have some of us remember the poor Irish.

Thereupon, the resolutions offered were unanimously adopted.

The Secretary: I have the application for membership of Mr. Frank B. Embry of Pell City.

It was then moved that the Secretary be instructed to cast the ballot of the Association for him, which motion was adopted, and the Secretary cast the ballot of the Association for the nominee named as instructed.

The President: I call attention to the fact that Gov. O'Neal's address comes far down on the program and that it might be made an order of special business at some particular hour.

Mr. Pitts moved that the address be made a special order for 11 o'clock A. M., which was adopted.

The Secretary announced he had received telegrams from Hon. Lawrence Cooper and Hon. H. C. Wilkinson, which he then read to the Association.

On motion, the telegrams were received and ordered printed in the proceedings.

Montgomery, Ala., July 4, 1919.

Hon. Alex Troy,
Secretary Ala. State Bar Association,
Selma, Alabama.

Please express my very great regret in being unavoidably detained in the investigation of the Baldwin County lynching and therefore unable to attend the meeting.

Horace C. Wilkinson.

Columbus, Ohio, July 4, 1919.

Hon. Alex Troy,
Secretary Alabama State Bar Ass'n.
Selma, Alabama.

I deeply regret that I am today deprived of the happiness which the annual session and companionship of fellow members brings to me. Accept my loving greetings.

Let me hope that the message of Governor O'Neal may be delivered with such convincing power that Alabama may be saved from further wreckage of state sovereignty.

Lawrence Cooper.

The President announced that the next order of business was a report from the Committee on Publication.

It was announced that there was no report from this Committee.

The President announced that the next was a report from the Special Committee on Legislative Enactment, by the Chairman, S. W. John, Esq.

The Chairman, S. W. John, Esq., then read the report of the Committee.

(Appendix.)

It was thereupon moved and seconded that the report of the Committee just read be received and filed, which was unanimously adopted.

The portion of the report with reference to the re-enactment of the old private road law was discussed by H. F. Reese, Esq.

The President announced the next was a report from the Committee on Violations of Ethics and Law by Attorneys, by the Chairman, Hon. S. J. Bowie.

It was announced that there was no report from this Committee.

The President announced that the next order was a paper by A. C. Lee, Esq., on "Some Observations of Modern Tendencies," which paper was read by Mr. Lee.

(Appendix.)

The President then announced that the hour for the special order had arrived.

Introducing Gov. O'Neal, the President said:

Gentlemen of the Association: It has been the custom heretofore for the Executive Committee to go outside of

our State to get the orator for an annual address. Our Committee, in this instance, has wisely determined that the products of Alabama are equal to those of any other State in the Union, in wisdom, manhood or brains. We have in Alabama here the equal of those we can find anywhere. They have selected one of the most distinguished lawyers, and one of our distinguished ex-officers. They have selected a native son of Alabama, a gentleman known to you all to address the Association upon a question of vital interest at this time.

Ex-Governor Emmet O'Neal then delivered the Annual Address to the Association on "The Susan B. Anthony Amendment. Effect of its Ratification on the Rights of the States to Regulate and Control Suffrage and Elections."

After expressing his appreciation, Gov. O'Neal delivered his address:

(Appendix.)

Mr. J. K. Dixon then made the following motion: I move, Mr. President, that this Association, irrespective of whether they agree with the paper or not, extend its thanks for the able, interesting paper just read by Gov. O'Neal.

This motion was seconded and unanimously adopted.

Mr. H. F. Reese then offered the following resolution:

RESOLVED, by the Alabama State Bar Association, that an appeal in proceedings to establish private roads should be provided by law.

2. That a committee of three be appointed to draft a bill providing for such appeal, and present same to the Legislature.

Upon motion, duly seconded, the resolution was adopted.

The President then appointed the following as members of the Committee provided for in the foregoing resolution, Messrs. H. F. Reese, William Hawkins, N. D. Godbold.

The President announced that the next report was from

the Special Committee to Prepare a Unified System of Courts to Present to the Legislature, by the Chairman, H. U. Sims, Esq., which report was read.

(Appendix.)

It was then moved and seconded that the report be received and filed, which motion was adopted.

Mr. W. P. Cobb then asked unanimous consent to introduce a resolution, which, without objection, was granted.

Mr. Cobb then read the following resolution:

WHEREAS, the Treaty of Peace embracing the League of Nations has been signed, thereby bringing to a close the world war which was above all else a war to end war and protect human rights, and,

WHEREAS, we believe that this is an all-American non-partisan question intended to promote the liberty, progress and orderly development of the world:

THEREFORE, BE IT RESOLVED, That the Alabama Bar Association, in session at Selma, Alabama, that this Association endorses the League of Nations, as adopted by the Peace Conference at Paris, and urges its ratification by the U. S. Senate.

BE IT FURTHER RESOLVED, That the Secretary of this Association be instructed to mail a copy of these resolutions to the United States Senators from Alabama.

The resolution was adopted.

The President announced that the Chair would leave to the new President the appointment of the Committee relative to examination of applicants for admission to the bar.

Mr. H. U. Sims addressed the Association relative to the work done by the members of the bar during the recent war, in assisting in the operation of the draft law, and in assisting registrants in this connection; and stated that he understood the War Department had no official record of the work done by the members of the bar in this matter; that while he knew we did not desire to be memorialized for that, he wished to ask the Association to

report in some way the names of the lawyers who acted as Legal Advisers in Alabama, and moved that the Secretary be instructed to publish with our proceedings a list of the Advisory Boards, and a brief summary of the work done by them, and send a copy of it to the War Department.

Mr. Hugh Mallory stated that he thought he should include the names of Mr. Sims, Mr. Pettus and Mr. Troy.

Mr. Troy moved that the report be prepared by the man best qualified to prepare it, Mr. H. U. Sims.

Mr. Sims stated that he would be glad to prepare it, adding that no one wishes to have any contest over the honor of preparing it.

It was then moved and seconded that a list of the Advisory Boards of the State of Alabama, including the names of the Central Board, and a resume of their work be made by Mr. Sims, and be handed to the Secretary, and that he be instructed to publish it in our proceedings, and send a copy of it to the War Department.

This motion was unanimously adopted.

Mr. Reese then stated that he wished to make an announcement from the Committee on Entertainment, that the barbecue had been provided out at the Swimming Lake, and that they had sufficient automobiles to carry the members out.

Hon. J. T. Stokely: Before we adjourn, I move the thanks of the Association be extended to the Selma Bar Association, and the people of Selma for the generous hospitality they have accorded us.

This motion was seconded and adopted, and the President expressed on behalf of the Association, its thanks.

On motion, the meeting of the Association adjourned, **sine die.**

OFFICERS OF THE ASSOCIATION

1919-1920

PRESIDENT:

J. T. STOKELY, Birmingham.

VICE-PRESIDENTS:

W. C. Davis, Jasper.
S. D. Weakley, Birmingham.
W. H. Thomas, Montgomery.
Henry McDaniel, Demopolis.
E. J. Garrison, Ashland.

SECRETARY AND TREASURER:

Alexander Troy, Montgomery.

CENTRAL COUNCIL:

Hugh Mallory, Chairman, Selma.
E. Perry Thomas, Montgomery.
H. C. Wilkinson, Birmingham.
J. F. Thompson, Centreville.
H. E. Gipson, Prattville.

EXECTUTIVE COMMITTEE:

J. K. Dixon, Talladega.
B. P. Crum, Montgomery.
F. S. Ball, Montgomery.
S. A. Lynne, Decatur.
Alexander Troy, Montgomery, Ex. off.

COMMITTEES 1919-1920

ON JURISPRUDENCE AND LAW REFORM.

R. B. Evins, Chairman.....Greensboro
Alex. D. Pitts.....Selma
W. P. Acker.....Anniston
LeRoy Percy .....Birmingham
Palmer Pillans .....Mobile

ON JUDICIAL ADMINISTRATION AND REMEDIAL PROCEDURE.

A. B. Foster, Chairman.....Troy
J. Q. Smith.....Montgomery
J. S. Williams.....Clayton
Norville R. Leigh, Jr.....Mobile
Thomas W. Wert.....Decatur

ON LEGAL EDUCATION AND ADMISSION TO THE BAR.

Henry F. Reese, Chairman.....Selma
A. H. Carmichael.....Tuscumbia
Bernard Harwood .....Tuscaloosa
R. E. Steiner, Jr.....Montgomery
Alex. M. Garber.....Birmingham

ON CORRESPONDENCE.

Elliott G. Rickarby, Chairman.....Mobile
Frank S. White, Jr.....Birmingham
Carroll T. Prince.....Mobile
E. S. Lyman.....Montevallo
Geo. A. Sorrell.....Alexander City

ON LEGISLATION.

James Weatherly, Chairman.....Birmingham
John C. Eyster.....Decatur
B. deG. Waddell .....Seale
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G. R. Harsh.....Birmingham

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APPENDIX

ADDRESS OF

J. MANLY FOSTER

OF TUSCALOOSA

PRESIDENT OF THE ASSOCIATION

Our Constitution requires the President of the Association to open each annual meeting with an address in which he shall communicate the most noteworthy changes in statute law on points of general interest made in the several states and by Congress during the preceding year.

In making the investigation of changes in the statute law made since last meeting, it has seemed to me that the fields of legislation have been singularly unfruitful of noteworthy changes on points of general interest. The legislatures of comparatively few states have been in session, and the acts of those that have been are mostly of no general interest and deal principally with such matters as appropriations, local laws, minor amendments to existing laws, and the like. The paucity of legislation of general interest possibly is attributable to the fact that the issues of the world war and the Peace Conference so overshadowed all others that legislators were reluctant to make material changes in the law until those issues were settled, and people again turned their attention to domestic problems.

I have placed in an appendix a reference to some of the more important acts of Congress and of the Legislature of Alabama.

Since our last meeting the prohibition amendment to the Federal Constitution has been ratified by the legislatures of more than the necessary number of states. Referendum to the people of ten states, which have the initiative and referendum system, has been demanded on the resolutions of their legislatures ratifying the amendments, and some of the great lawyers of the country assert that it will not

be validly ratified until the people of at least one of these ten states have indorsed the action of its legislature. But the Department of State has proclaimed that the Article is now a part of the Constitution.

Also Congress has submitted to the states the woman suffrage amendment to the Constitution.

The prohibition amendment declares in Section 1 that "after one year from the ratification of this Article, the manufacture, sale or transportation of intoxicating liquors within, the importation into, or the exportation thereof from, the United States, and all territory subject to the jurisdiction thereof, for beverage purposes is hereby prohibited." And in the section "the Congress and the several states shall have concurrent power to enforce this Article by appropriate legislation."

The prohibition of the first section is all embracing, and it may be that even the domestic wines permitted to be made in the homes by the Alabama law will be liberally dashed with cold water, and the last refuge of the thirsty destroyed.

The second section may be the source of some very interesting legal questions. It may be necessary for the Courts to determine what its meaning is. Lawyers are familiar with the rules relating to concurrent jurisdiction of the Federal and State tribunals, and concurrent as applied to jurisdiction has a well-defined meaning. We know also the doctrine that where an act has been made a crime against the United States, the states may make the same act an offense against their laws, unless the act is made exclusively cognizant in the Federal Courts by the Constitution or the laws of Congress.

If the second section means only that the State Legislatures may make the acts prohibited by the article crimes against their laws, it carries us into no new ground. But, if it means what its language obviously imports, it apparently creates something in the nature of a new relation between the general government and the states. Note the

language: "The Congress and the several states shall have concurrent power to enforce this Article by appropriate legislation." Is this a delegation of power to the states to define what are offenses under this Article, and to provide for prosecution in their own tribunals of crimes against the United States? If so, it seems that as to offenses under this Article other provisions of the Constitution become inapplicable. At an early period in its history the Supreme Court took occasion to enumerate the classes of cases in which the judicial power of the United States is exclusive of all state authority.

In Martin v. Hunter, 1 Wheaton, 304, Judge Story said: "The vital importance of all the cases enumerated in the first class to the national sovereignty might warrant such a distinction. Here the state courts could not ordinarily possess a direct jurisdiction. The jurisdiction over such cases could not exist in the state courts previous to the adoption of the Constitution, and it could not afterwards be directly conferred on them; for the Constitution expressly requires the judicial power to be vested in courts ordained and established by the United States. This class of cases would embrace civil as well as criminal jurisdiction and affect not only our internal policy, but our foreign relations.

There is certainly vast weight in the argument, which has been urged, that the Constitution is imperative upon Congress to vest all the judicial power of the United States in the shape of original jurisdiction, in the Supreme and Inferior Courts created under its own authority. At all events, whether the one construction or the other prevail, it is manifest that the judicial power of the United States is unavoidably, in some cases, exclusive of all state authority, and in all others may be made so at the election of congress. No part of the criminal jurisdiction of the United States can, consistently with the Constitution, be delegated to state tribunals."

Since that decision there has been, so far as I am

aware, no effort on the part of Congress to commit to the State Courts any part of the criminal jurisdiction of the United States, nor on the part of the states to clothe their tribunals with power to try offenses against the general government.

It is possible that in other respects the language of this section will present perplexing problems. It is fair to assume that concurrent as applied to power in the Section has the same significance given to it when applied to jurisdiction. Congress and the states have equal power to enforce the Article. Neither is superior to the other. That Government which first exercises the power may not be excluded by subsequent action of the other. If, before Congress acts, a state legislature declares what acts are violations of the Article, it would seem that such action by the state would exclude the power of Congress over the subject within the territory and jurisdiction of the state. For instance, if the State should declare that beer having three per cent alcohol and wine having seven per cent alcohol are not intoxicating liquors, could Congress subsequently put them in the prohibited class within the State? Or, if the State should impose penalties wholly inadequate to reach the results intended by the Article, could Congress inflict a different punishment for offenses committed within the State?

But the investiture of State tribunals with jurisdiction of crimes against the United States, and the exercise of really concurrent power to enforce the Article of the Constitution would, both, be very much in derogation of the sovereignty of the general government, and it is to be assumed that, necessarily, either the states will not undertake to exercise the power apparently given them, or that the courts will give such a construction to the Section as will preserve the supremacy of Congress.

The woman suffrage amendment prohibits discrimination on account of sex. It remains to be seen whether a sufficient number of the states will ratify the amendment

There is fear, prevailing more in the Southern states than elsewhere, that the adoption of this Article will give Congress excuse for further meddling with the policies of the states in reference to the general qualifications of electors. The ever present, perplexing, pathetic problem—the race issue—is the foundation of this apprehension.

But Congress has possessed this power since the adoptions of the Fifteenth Amendment. That it has not hitherto exercised it is no guarantee, it is true, that it will not do so in the future. It is pertinent to inquire, however, whether we should be in any worse case than we are now if the woman suffrage amendment were adopted.

The rapid change in public sentiment on the woman suffrage question in the past decade has been one of the remarkable developments in our politics, and to the thoughtful observer it must have been apparent that sooner or later, either by State action or by amendment to the Federal Constitution, the right of suffrage would be bestowed on women throughout the country. This development may be due to the fact, in part at least, that, regarded as a question of human right, no argument entirely free of fallacy can be opposed to woman's demand. We may meet it with our old traditions of the proper sphere of woman, and our fear that the exercise of the suffrage will tend to degrade women and introduce too much feminism into government, but when intelligent, good women who have children and large property interests subject to governmental control and regulation, and who pay taxes for the support of government, ask us why they should be denied all voice in politics, while wholly worthless, ignorant and vicious male citizens are allowed to vote, we find it difficult to give a satisfactory answer. Be that as it may, men are more and more regarding the matter as one of justice to woman, and when a political question becomes in the minds of the people one of human right, we may as well prepare to endure, if we cannot approve, a decision in favor of the right. Perhaps after all this sense of justice in our people

is one of the surest guaranties of the endurance of a free and just democracy.

In this connection it may be interesting to note that Congress has authorized the Legislature of Hawaii to confer the right of suffrage on women.

The first sitting of the 1919 Session of the Legislature of Alabama has been held. Laws of general interest and importance were enacted, among them the Prohibition Act putting an end to the gradual tapering off provided for by former Acts, and imposing very severe penalties,—notably the confiscation features aimed seemingly at the innocent as well as the guilty owners of property incidentally used in violation of the law. I am informed that some of these provisions are already before the courts and that whether or not they offend against the Constitution soon will be settled.

The Act relating to neglected, dependent and delinquent children deserves more than a passing mention. It is a step towards correction of a default of which the State too long has been guilty.

We have spent millions of dollars and provided great institutions for the care of unfortunates who from the very nature of their misfortunes, maladies or deficiencies, are incapable of becoming useful citizens or of taking any part in our social and political activities. We have given much thought and effort to the care and improvement of those who suffer imprisonment for infractions of our penal laws. But hitherto we have neglected utterly (for the little we have done for delinquent children is scarcely worth mentioning) the most appealing class of our helpless population—the class which in good citizenship and useful lives promise the greatest reward for our care—the little children, who, through the misfortune or delinquency of their parents, are left to their own resources, to degenerate into vagabonds or criminals, or, at best, to develop into inefficient or undesirable citizens of the commonwealth.

I would not be understood as disparaging in any way our

endeavors for the unfortunate who now are under the care of the State. On the contrary, I believe we should do more for them than we have ever done before. But they are the derelict flotsam and jetsam of the sea which we remove from the ways or life for safety, whereas, these children may be made useful members of society. We, therefore, ought firmly to resolve that no longer shall we be remiss in our duty to our helpless children. It is a duty we owe not alone to them, but to society.

If the State may ever engage in paternal acitvities or duties, it is amply justified in assuming the part of parent to those who through its care may become useful members of society, but who, if neglected, are in danger of becoming vicious and burdensome.

The Act mentioned is only a beginning and even as a beginning is not what it should be. It applies only to counties having 150,000 population or more, and, therefore, at present only to one county.

If, as a result of the judicial investigation provided for, the child is found to be neglected or dependent, the Juvenile Court may place it in the care of the probation officer, or allow it to remain in its home subject to the visitation and supervision of the probation officer, or place it in a suitable family home willing to receive it, subject to the friendly supervision of the probation officer, or board it out in a suitable home, or commit it to any orphanage or charitable institution for the care of children, or place it in the county shelter or parental school which the county is authorized to establish. In case of delinquency, the child may be sent to the Alabama Boys Industrial School, or the State Training School for Girls, according to its sex.

It is manifest that the act is wholly inadequate. There are neglected, dependent and delinquent children in all of the counties. We are accustomed to the phrase, state-wide laws, and recently we have provided for state-wide eradication of the cattle fever tick, but the matter of eradicating ignorance, vice, disease and poverty from that part of our

juvenile population to whom even the door of hope is shut, unless the State exerts its power to help them, we seem content to leave to the experimentation of a single county whose enlightened and humane representatives insist that their county shall be given the right to redeem its neglected and dependent children.

This is a most important State work. It ought not to be left to the counties. The State should establish adequate institutions for the care and education of all children adjudged to be neglected, dependent or delinquent, segregating the merely neglected and dependent from the delinquent. There ought not to be any thought of charity in this work, but the institutions should be so managed that the children given into their care will be made to feel that they are but the beneficiaries of a duty owed to them, and equally obligatory on the State as is the duty to care for their children upon natural parents.

This Act serves, at least, to show that popular interest in the subject is being aroused, and gives hope that soon the legislation necessary to enable the State to do its full duty will be enacted.

A general survey of the Acts of the present Legislature gives the impression that, while effort to clean up the moral plague spots of our social system has not been neglected, the most noteworthy tendency is to promote those things which count most for the material well being of the commonwealth, and that we may justly expect much beneficial and important legislation in the remaining half of the session. Many of the laws already enacted are worthy of comment, but I must content myself with a reference to them in the appendix.

Leaving aside the amendments to the Federal Constitution, perhaps the most important and interesting laws made in the preceding year are the amendments to the Constitution of North Dakota, and the laws enforcing them because they constitute the most radical experiment in government which any American State has yet undertaken.

Ten amendments to the Constitution of that State have been adopted by the people,—the most important being to provide for a state tax on lands for the purpose of insuring growing crops against damage by hail; to prohibit any law being declared unconstitutional unless at least four of the five judges of the Supreme Court shall so decide; to authorize the Legislature to exempt from taxation any or all classes of personal property, and declaring that within the meaning of the amendment fixtures, buildings and improvements of every character whatsoever, upon land shall be deemed personal property; to authorize the State to issue or guarantee the payment of bonds up to two million dollars, without security, and an additional amount up to ten million dollars secured by first mortgages on real estate in amount not to exceed one-half its value, or upon real estate and personal property of state-owned utilities, industries, or enterprises; and to authorize the State, any county or city, to make internal improvements and to engage in any industry, enterprise, or business, not prohibited by Article 20 of the Constitution.

The amendments give a pretty clear idea of the comprehensive scheme to make the State, counties and cities business corporations, with power to carry on almost all kinds of business.

Already the Legislature has provided for a system of state-owned and operated banks, the capital to be furnished by the sale of two millions of State bonds. All public funds are to be deposited in the State bank, and it may receive deposits from any source. All deposits are guaranteed by the State. The bank may transfer its funds to other departments, lend to counties, cities and towns, and State utilities or enterprises, and to individuals, corporations and associations, when secured by first mortgages on real estate, or by warehouse receipts. When real estate is the security, the amount lent shall not exceed one-half its value, and when warehouse receipts are pledged, the bank

may lend ninety per cent of the value of the commodities evidenced by the receipts.

An Act has been passed creating an Industrial Commission to have charge of all state owned and operated businesses, industries and enterprises.

If the people ratify all the legislative enactments, and there seems little doubt that they will, the operation of the scheme will be watched with the greatest interest, not only because it puts the State squarely into business avowedly for the benefit of the people, but because the people of this young State hope to find in it an effective remedy for evils which have evoked the bitter protest of small producers and consumers the country over. When we recall Alabama's experiences in her state bank scheme and in the guaranty of bonds of railroad corporations, we are glad that some other state rather than Alabama is making the experiment.

At our last meeting the gravity of the international situation filled us with anxiety. Since then the terrible war has ended with complete victory for us and our allies. Many of us who felt sure, even in the darkest hours, that civilization and democracy would triumph, hoped for the coming of universal peace and brotherhood. We had heard much of a new spirit born amidst the carnage of war, and we were told that it would emerge from the ruins to bless a regenerated world, from which grasping selfishness would be routed, and over which orderly freedom, justice, unselfishness and helpfulness would reign. We now sadly realize that we have inherited no millennial conditions from the great war. We know that human nature has not changed. We see the struggle for selfish advantage continued on every hand. We are made acutely conscious that the burdens of the war are passed on to the backs of the so-called middle classes by those who have the power to exact tolls of the consumer, and whom one Federal investigator declared to be, in his opinion, more powerful than the Government. We see the tendency accentuated to make

the halls of legislation and the forums of justice the scenes of class warfare. We know that we are facing very real perils to our Constitutional Government. We recall bitterly the pessimistic words of that philosopher who said we grunt and sweat and pile stone on stone and accomplish nothing.

With it all, however, we are brought to a wholesome realization of that truth we ought always to have kept in mind—that if we would keep what we have won through centuries of struggle, we must fight over to retain it; that eternal vigilance still is the price of liberty. Perhaps never before in our history was there a more imperious necessity for a vigilant determination to hold government to the charted lanes over which experience has demonstrated it may voyage with safety and success. For there are forces at work threatening to veer it into courses where it will be difficult, if possible, to avoid disaster. The triumph of any one of those forces will mean the ruin of constitutional government.

I do not speak of open, avowed antagonism to our system, for that we can handle, and shall handle, even if the gallows and the firing squad be the needed remedies. I have in mind silent and insidious forces which in the very nature of their processes are far more dangerous than open hostility. These have gained momentum from the necessities of a state of war.

The steady concentration of power in the Federal Government, unless wisely restricted to legitimate national purposes, ultimately will destroy the operation of one of the foundation principles of Anglo-Saxon liberty,—local self-government. The extension of the power of Congress over new subjects, as those subjects by reason of the increasing complexity of our social system become of nation-wide importance, is unavoidable. Matters which the states may now successfully handle will get beyond their capacity to regulate properly. Whenever federal control over a subject becomes necessary and beneficial, it is mere folly

to contst the extension of national power over it. But there is a growing tendency to place under the regulation of the general government matters of purely local concern with which the states can deal effectively. Possibly this tendency is due to a conviction that national regulation is more impartially administered, and, therefore, more efficient. But such a conviction must have its origin in the idea that a distant power, removed from an intimate responsibility to the people, inspires a wholesome fear. And this suggests the further belief that the states do not enforce their laws effectively. These observations lead to the reflection that obedience to law compelled by fear alone is not the high conception of the duty of obedience, which should exact the loyalty of citizens of a free and enlightened democracy. They point out also that one way to resist the undue concentration of authority in the general government is for the states to make effective laws and administer them efficiently.

Free popular government can not long survive without a system of just and equal laws, fairly and impartially administered. Equality and justice are of the very essence of liberty, and fair and impartial enforcement of the law is a requisite to that wholesome respect and affection for our institutions which alone can insure their stability. We must then regard with some foreboding the tendency toward the grouping of our people into classes and the demand for class legislation without regard for the rights or welfare of the whole body of citizenship, as well as the disregard or evasion of just regulations by the powerful, who, regardless of right or law, continue to exploit the people.

It is not my purpose to discuss in detail the disorders of the body politic which are undermining the vitality of constitutional government. In fact, the limit of my time forbids more than a bare mention of them. However, I have dared to trespass upon your patience so far as to call attention to two forces which are tending to overthrow our Constitution,—the assumption of new and unnecessary

powers by the Federal Government, and the efforts to destroy those guaranties established for the protection of the minority against the tyranny of majorities. These forces must be curbed, and equality, justice and the rule of law secured, both by stricter and more effective enforcement of our constitution, and by the education of our people in enlightened patriotism and in the salutary principles upon which our institutions are founded. In these corrective processes, if he be true to the proud traditions which fill the annals of his profession from ancient times, the lawyer will take a large part. In a very real sense he is a servant of the public, and in all the crises of the history of our race, in the councils of peace, and on field of battle, he has justified his title.

If the lawyers of the country shall realize that the character of their duties and the traditions of their profession call them to do—service in a cause of the greatest importance to freedom and orderly government, and shall devote themselves patriotically and fervently to that cause, they will do more than any other single agency for the preservation of our constitutional liberties. They again will exhibit the spirit and courage which always have placed the Anglo-Saxon lawyer in the forefront of the struggle for human liberty. And I apprehend that their service in the cause of freedom will not entail any loss in a material sense, for, without irreverence, the Scripture may be paraphrased to read—seek ye first the welfare of your country and all these things shall be added unto you.

APPENDIX.

IMPORTANT RECENT ACTS OF CONGRESS

1. Act approved June 3, 1918, granting to the Legislature of the territory of Hawaii additional powers relative to elections and qualifications of electors.

2. Act approved June 25, 1918, to amend the Act to authorize the establishment of a Bureau of War Risk Insurance in the Treasury Department.

3. Act approved June 27, 1918, to provide for vocational rehabilitation and return to civil employment of disabled persons discharged from the military or naval forces.

4. Act approved July 3, 1918, to give effect to the convention between the United States and Great Britain for the protection of migratory birds.

5. Act approved July 15, 1918, to amend the Shipping Board Act, approved September 7, 1916.

6. Act approved July 16, 1918. to pension widows and minor children of officers and enlisted men who served in the war with Spain, the Philippine insurrection, or in China.

7. Joint Resolution, approved July 16, 1918, to authorize the President in time of war to take possession and assume control of any telegraph, telephone, marine cable, or radio system, and to operate the same.

8. Act approved September 19, 1918, to protect the lives and health and morals of women and minor workers in the District of Columbia, to establish a minimum wage board, and provide for the fixing of minimum wages for such workers.

9. Act approved September 26, 1918, to amend the Federal Reserve Act.

10. Act approved October 16, 1918, to exclude and expel from the United States aliens who are members of the anarchistic and similar classes.

11. Act approved November 7, 1918, to provide for consolidation of National Banking Association.

12. Act approved February 25, 1919, increasing the salaries of District Judges to $7,500.

IMPORTANT RECENT ACTS OF THE LEGISLATURE OF ALABAMA.

1. Joint Resolution, adopted January 15, 1919, ratifying the prohibition amendment to the Federal Constitution.

2. Act approved January 25, 1919, to further suppress the evils of intemperance.

3. Act approved February 3, 1919, to create the Alabama Memorial Commission.

4. Act approved February 3, 1919, to amend the act for the regulation of paternal benefit societies.

5. Act approved February 7, 1919, to provide for the appointment of a commission to make a study of the public school systems of Alabama.

6. Act approved February 7, 1919, to provide for statewide eradication of the cattle fever tick.

7. Act approved February 11, 1919, to create a State Budget Commission.

8. Act approved February 13, 1919, to create a State Board of Control and Economy.

9. Act approved February 11, 1919, to authorize the Governor to remove at his pleasure any officer or employee who holds office or employment under appointment of the Governor, except appointees to fill vacancies in elective offices.

10. Act approved February 12, 1919, to declare and abate nuisances.

11. Act approved February 13, 1919, to authorize counties and school districts to hold elections for special school taxes.

12. Act approved February 14, 1919, providing for voting by absentee qualified electors in primary elections.

13. Act approved February 15, 1919, to provide for acceptance of Federal aid for the promotion of vocational education.

14. Act approved February 15, 1919, to amend the Act to further prescribe and regulate the manner of taking appeals in criminal cases.

15. Act approved February 15, 1919, to authorize the Governor to make rules and regulations for the reorganization of the National Guard.

16. Act approved February 16, 1919, to regulate the practice of public accountancy.

17. Act approved February 17, 1919, relating to neglect-

ed dependent and delinquent children in all counties having a population of 150,000 or more.

18. Act approved February 19, 1919, to authorize the trial court to impose indeterminate sentences in all felonies for which the court fixes the punishment,

19. Act approved February 19, 1919, to provide for the control of venereal diseases by an antenuptial physical examination of men.

PAPER BY

JOHN W. LAPSLEY

OF SELMA

SOME NEEDED JUDICIAL AND LEGISLATIVE REFORMS AS SEEN BY A YOUNG LAWYER

William M. Blatt has said: "Defense and prosecution are the lawyer's trade, for which he is hired and paid, and faithfulness to his client is mere common honesty. But the improvement of the law is a poetic idea, an unselfish goal, which lifts the lawyer out of sordidness and into the nobler life."

Until the lawyers unite, and so united lend their best talent to the problems of judicial reform in our state, and present them to the Legislature and public in the force of that unity, we may expect no permanent remodeling of our judicial structure to keep pace with the progressive development of our present age.

The demand for genuine, sincere, practical reform has been voiced unanimously; this cry from all is clearly and concisely expressed by the leaders of thought in America:

Charles E. Hughes has said:

"Justice in the minor courts—the only courts that millions of our people know—administered without favoritism by men conspicuous for wisdom and probity, is the best assurance of respect for our institutions."

Roscoe Pound says:

"Our system of courts is archaic and our procedure behind the times. Uncertainty, delay and expense, and above all the injustice of deciding cases upon points of practice, which are the mere etiquette of justice,—direct results of the organization of our courts and the backwardness of our procedure—have created a deep-seated desire to keep out of court, right or wrong, on the part of every sensible business man in the community."

President Wilson has recently said:

"I do know that the United States, in its judicial procedure, is many decades behind every civilized government in the world; and I say that it is an immediate and an imperative call upon us to rectify that, because the speediness of justice, the inexpensiveness of justice, the ready access of justice, is the greater part of justice itself."

It seems to me that President Wilson has, in his characteristic conciseness, summed up the entire matter in stressing three points, namely: "speediness of justice," "inexpensiveness of justice" and the "ready access of justice."

First—

The speedy administration of justice is absolutely essential if we expect to stand firmly for the course of the law, and effectively oppose the course of the mob, however inexcusable the latter may be. Likewise, until the elimination of the proverbial "law's delay,"—until a judicial ascertainment may be had with the same dispatch as important business matters are considered and disposed of by trained and careful business men,—the modern business man will, at most any cost, continue to avoid the forum of that institution which should be found a ready means and inexpensive means of adjusting the many conflicting rights and equities which inevitably arise in all human transactions.

Second—

In using the term "inexpensiveness of justice" Mr. Wilson had reference to the reduction of the expense borne by the citizen who turns to the Courts for the protection, preservation or enforcement of his rights, and not to the question of the expense of maintaining an adequate judicial system on the part of the Government, Federal or State. In other words, cheap judges do not insure economy. There has been in Alabama for a number of years to my mind too much deliberation and discussion generally regarding the expense of the judicial system to the state, and a lack of consideration of the huge expense indirectly and directly

borne by the people who seek the services, and who are compelled to answer the processes, and abide by the judgments of the courts. To insure the inexpensiveness of justice it must be subject to ready access and be speedy in its operation.

Third—

There can be no ready access of justice where months of time intervene between the terms of court actually held in the various counties. Time is of the essence of justice. And no county should be too small to have provided for it an ever ready judicial officer, and it is not sufficient that such county merely has a judicial tribunal which is theoretically open for business at all times but whose head is, in fact, absent from the county for months at a time. In a large number of counties this judicial officer is the only missing part in that complicated machinery of the county which should ever stand ready to conduct its governmental affairs, adjudge the rights of its citizens, execute the judgment and decrees of its courts, and administer the laws of the State.

I am in favor of a unified court system for Alabama, to be molded to suit our peculiar needs.

I believe in a well paid judiciary, and life tenure, with a provision for retirement upon two-thirds pay after, say, fifteen years continuous service.

While I do not generally favor the election of judges by the people, I like some of the features of the proposed New York plan, one of which is the election of the Chief Justice by the people for a term of years; he to be the chief administrative officer of the judicial system, responsible to the people for its efficiency, and vested with the power of appointment of judges, subject to the approval of a Judiciary Board, which I would suggest be composed at all times of three Justices of the Supreme Court, three Circuit Judges, and three members of the Bar. The Chief Justice to be ex-officio Chairman of the Judiciary Board, the Board to select its own successors, when once organ-

ized, and to be vested with the power of formulating rules of practice and procedure throughout all the Courts. Such a plan as I have outlined would tend to preserve more perfectly unto the Judicial branch of the government its separate functions, the wisdom of which principle was seen by our forefathers.

I favor one appellate tribunal by consolidation of Supreme Court and Court of Appeals, and at least one Circuit Judge for each County, or small Circuits where it is impractical at present to provide a judge for some of the smaller counties, or that an adequate number of judges be added to existing Circuits where necessary. If to justify the expense of increasing the number of Circuit Judges it seems expedient to increase the jurisdiction or multiply the duties of such Circuit Judges, we should fearlessly recommend what we deem to be the wisest course of action, irrespective of political pressure. To this end it has occurred to me that such judges might well be given jurisdiction of all misdemeanor cases now tried before the County Court in some Counties, and also given the exclusive jurisdiction over estates, guardianship matters, wills, partition proceedings, and other judicial functions now exercised by the Probate Judges, substituting for the Probate Judge, a County Clerk or Recorder, to keep the records of the county, and to be ex-officio Chairman of the Commissioners Court or Board of Revenue.

To the problem of presenting some concrete plan of judicial reform, or unified Court system for our State, there should be devoted the best brains of our Bar, who should have ample time for the consideration thereof, and whose plan when agreed upon I would like to see published beforehand so that it might be intelligently discussed and acted upon at a subsequent meeting of the Association.

Turning now to the question of legislative reform, I would like, briefly, to mention several laws which it seems to me should be changed, namely:

First,—That in the execution of a will it be provided that

it may be acknowledged in like manner as a deed, and thereupon become self proving when offered for probate.

Second,—That it be provided that real property descend to the husband or wife, in case of no lineal descendants, before going to the parents or brothers and sisters, or their descendants.

Third,—That instead of the husband receiving a life estate in the wife's realty, or an estate by courtesy, and instead of the widow's dower, whatever estate be given the husband or wife be equal, and be one in fee rather than for life.

I most respectfully submit these remarks for your consideration, knowing that doubtless some of them are idealistic and may be deemed impractical by the more experienced members of our profession, but I trust we may never come to such a viewpoint that the faults of our judicial system or the injustices or defects in our laws may be first or clearer seen by laymen, nor that we should permit others to be foremost in endeavoring to remedy the faults and defects.

REPORT OF
COMMITTEE ON JURISPRUDENCE AND LAW REFORM

JOHN McKINLEY, Chairman
OF EUTAW

Mr. President and Gentlement of the Alabama State Bar Association:

Throughout the State there has been much complaint against the law's delay, the expense of litigation and the frequent miscarriage of justice. Is this complaint well founded in fact, and if so, wherein lies the trouble? This is a serious charge and demands investigation. A careful analysis of the question leads us to believe that this criticism is in a large measure directed against our present system of pleading, and the practice and procedure which obtains in our higher courts. The Code (Section 5321) provides that in civil cases "pleadings shall be as brief as is consistent with perspicuity," and of the plea in particular, it is declared (Code sec. 5330) that "that it must consist of a succinct statement of the facts relied on in bar or abatement of the suit." When we read these statutes in the light of our present day pleadings, we are lead to exclaim: How far have we departed from the evident intent of the legislature! Under our criminal procedure, instead of providing by a statute that indictments should be as brief "as is consistent with perspicuity" the legislature provided a form of indictment for practically every criminal charge, and these forms have been held sufficient even thought the defendant be proceeded against for an offense involving his life or liberty. No reliable statistics are available for presentation to this Association, but it will be conceded that an enormous percentage of the cases reversed by the Supreme Court and the Court of Appeals, and remanded for a new trial—are required to be reversed under our present system on purely technical questions of

pleading, where the real merits of the case would otherwise demand an affirmance of the judgment of the lower court. It is true that Rule 45 was adopted for the express purpose, amongst other things, of authorizing the higher courts to affirm all cases where, from an examination of the entire record, the court is of opinion that no error prejudicial to the interests of the appellant has been committed, even though there be technical errors committed by the trial court in its rulings upon the pleadings, etc. It was with high hopes that we first read this Rule, but we were quickly forced to a realization of the fact that it is extremely hard for the judicial mind, when it discovers error in the record—no matter how slight—to disabuse itself of the impression that injury, as a natural sequence, has resulted from such error; it is therefore difficult for the higher courts to apply the Rule, and they are not swift at any time to enforce it; yet a careful examination of cases which, to the ordinary practitioner, seem in all things parallel, will disclose that in the one case the Rule has been applied, whereas, in the other it was not even referred to, or if referred to at all, the court declined to apply it. It is true that Rule 45 is the product of the restrictive legislative power of the higher courts, which permits the making of such rules as may be deemed necessary to the convenient handling of its business and decision of cases which come before them on appeal; however, even if the legislature should pass an Act in the exact language of the above mentioned Rule, the higher courts would, under their rulings, still be at liberty to enforce or ignore it as they saw proper in a given case; for it has been decided in this State, in effect, at least, that the legislature is powerless to control the higher courts in the enforcement of rules of that character, and the effort of the lawmaking body to require that where a trial is had before the court without a jury, the conclusion and judgment of the trial judge on evidence shall be reviewed on appeal without any presumption in favor of the court below (Acts 1915, pp. 939-941), has been

judicially declared to be abortive, and both of our higher courts decline to give full effect to that provision of the Act.

Nothing herein stated is in anywise intended as a reflection upon either of our highest courts, and the above rulings are cited merely for the purpose of showing that, should the legislature pass an Act in the very words of the present Rule 45, the higher court would still have the right, not only to interpret its meaning, but the power likewise to enforce it or not as it thought proper in any given case.

The protection and enforcement of rights, whether legal or equitable, is a duty which is devolved partly upon the courts and in part upon the bar. Cases should be tried upon their merits, and but scant regard should be paid to technicalities in the presentation of the cause of action or of the defense. Nor should a court be required to waste its time and energy in an attempt to decide which of the opposing counsel engaged in the trial of a cause is the most proficient pleader, or which can be the most technical and get by with it; the court should be enabled to devote its entire time to a consideration of the case which is before it, and endeavor to determine the real issues and decide the cause upon its merits. This Association, and the eminent attorneys gathered at this meeting, may not agree with this committee, but we feel justified in saying that in the trial of a present day damage suit, both the trial court and the two higher courts of this State are so bombarded and harassed by the mass of pleadings to be settled, that they almost lose sight of the fact that the plaintiff and defendant (not their respective attorneys) are the parties before the court, and the merits of the case are frequently kept far in the background. A trial under our present day system might well be compared to a modern battle. In the lower court the plaintiff's attorney starts the conflict with a complaint which is neither more nor less than a barrage of counts; to this his opponent lays down a coun-

ter barrage of demurrers; then comes the gas attack in the argument of the demurrer, followed by the defendant's shock troops of pleas, while the plaintiff sends forward his tank corps of demurrers, hoping to annihilate the pleas, and the atmosphere is again charged with poison gas, whilst each side hurries up its reserves of replications, demurrers to replications, rejoinders, rebutters and sur-rebutters, and still the battle rages; 'tis only when all the reserves on both sides are exhausted, and the combatants have retired to their respective trenches, that the worried and harassed judge can readjust his gas mask and announce his final ruling on the pleading; and it frequently happens in such battles that the merits of the case, powder burned and shell shocked, limp away to see the stretcher bearers behind the lines, and justice itself is as oft as not listed amongst the casualties of the battle. Moreover, it sometimes happens, and we take this occasion to condemn the practice, that an attorney, while he will assign numerous grounds of demurrer to a complaint or other pleading, will not press some particular ground which he believes to be good, hoping that it will be overlooked by the trial judge, so that the lower court will be put in error if he has to appeal the cause, and in the higher court will use it, like a submarine, to blow up the judgment obtained by his opponent's client in the court below.

It has been well said that "all that a man hath will he give for his life." But notwithstanding this high value which is properly placed upon human life, and the protection which the law throws around one who is charged with a capital offense, a man may be tried, convicted and hung on an indictment which merely charges that he "unlawfully and with malice aforethought killed C. D. by shooting him with a gun." At the same time practically every conceivable defense to the charge may be shown under a plea which simply says that the defendant is "not guilty". The legislature has furthermore prescribed a form of indictment for practically every offense against the criminal

laws of the State; each of these forms is short and simple, and the plea of not guilty is a sufficient answer to them all. These forms have been in existence for many years, and have proven satisfactory to both the bench and the bar, and no one hears complaint made that they should be more elaborate. Now if cases involving life and liberty may thus be disposed of under these extremely simple forms of indictment, why hold on any longer to our antiquated, elaborate and technical forms of complaint and other pleadings in cases which involve merely civil rights? It seems to us that short and simple forms of complaints and of all other pleadings should be provided for every civil action, and that a committee from this Association should be selected to draft such forms, and prepare a bill to be introduced in the present legislature putting these forms into immediate effect. We have long discussed this question, and it is now high time for us to act. The few forms now furnished us in the Civil Code have proven as entirely satisfactory in civil practice as have the forms of indictment in criminal cases, and if this be true after the long years by which they have been tested, why not now cover the entire field and provide simple forms of complaint for all other causes of action? But while we are simplifying the complaint, it will not do to overlook the plea—because even more technical rules have been announced by our higher courts with reference to their wording, in some matters of defense at least, than have been applied to complaints; for instance in a damage suit the complaint may charge negligence as a mere conclusion, and the courts say that such complaint is entirely sufficient; but the defendant is denied the right to set up, as a conclusion, the contributory negligence of the plaintiff, and the courts hold that in order to be a good plea it must set out the facts constituting such contributory negligence. We have never been able to reconcile these two lines of decisions, but such without doubt is the law of this State. However, the courts have swung the pendulum a great dis-

tance in another direction, for they held that where issue is joined on an immaterial plea,—a plea which presents no shadow of a defense to the action—and the plea is proven, the defendant is entitled to a judgment. Such a miscarriage of justice could hardly occur if our pleadings were simplified. Why then not abolish all pleas other than one which simply denies the allegations of the complaint, and make it a sufficient answer in all cases—with a provision that under such plea the defendant may offer in evidence any matter constituting a defense to the action? In opposition to these suggestions it may be argued that the object of all pleadings is to apprise the opposite party of the facts upon which the action or defense is founded, and that the simplified count and the plea of the general issue will not do this. We grant that in theory the defendant on the one hand is presumed to be ignorant of the facts constituting the plaintiff's cause of action, and on the other hand that the plaintiff is presumed entirely without information as to the facts which will be set up in defense, but in the truth of the matter is that, more often than not, each party to the suit is fully cognizant of every fact and circumstance which his opponent will attempt to show at the trial. However, if there be any merit in this theory of "ignorance," we believe any real objection to simplified pleading can be easily remedied by empowering the defendant to demand of the plaintiff a bill of particulars, and by requiring the defendant to furnish the plaintiff, or file with his plea, a statement of the facts on which he will rely for a defense. Amongst other results which would be accomplished by this simplified, or Code system, of pleading would be that all cases would be tried on their merits; they would be speedily disposed of in our trial courts, thus reducing the time necessary for clearing the civil dockets, jurors would be detained at court for a much shorter period so that the expense to the counties would be lessened, parties and their witnesses would not have to wait while the lawyers wrangle over the pleadings, there

would be a great falling off in the number of appeals, and our overworked higher courts would be enabled to give more time and greater consideration to such cases as might be submitted to them than is possible under the existing system. Some of our older attorneys may object to this innovation on the further ground that the better part of their lives have been spent in mastering the present highly technical system of pleading; they may suggest that this great advantage which they have thus acquired would be entirely lost if the Code provided the forms to be used, and that the fledgling lawyer would stand an equal chance with the experienced practitioner in the trial of cases. To this, however, we cannot agree for the experienced lawyer, no matter how simple may be the pleadings in his case, will always retain his advantage over a less experienced brother; furthermore, the lawyer should be governed in all cases not by a pride of his knowledge of the complicated rules of pleading, but by a desire to see that exact justice be speedily done between the parties; as affecting the litigants themselves, if the plaintiff's cause is meritorious he should not be required to take his case to a higher court in order to settle some technical question of pleading, but should have his judgment without delay; if the defendant has a good defense, he should be permitted to present it without being embarrassed by all sorts of technicalities; if the alleged cause of action, or the supposed defense, be without merit, the litigation should not be prolonged and unnecessary costs piled up which must be paid by the losing party. Moreover, while an attorney must always be loyal to his client and use all lawful and ethical means to enforce or protect his rights, whether they lie in action or are matters of defense, yet if the supposed rights be in fact without foundation in law, the client should not, either because of his wealth, his business or social standing, the feeling which he may have against the opposing party, or for any like reason, be permitted to unreasonably prolong a litigation—he should in fact be

given a short shift, with no technical points (not affecting the merits) left him on which to prolong the suit or defer final disposition of the cause.

Referring again to Code sections 5321 and 5330, which we believe were intended as a legislative declaration in favor of simplified pleadings, we are compelled to say that they have fallen short of their purpose; we have already drifted far afield, and are daily drifting farther and farther from the legislative intent. Under these statutes gossamer-like theories continue to be spun by attorneys in matters of pleading which, when they receive judicial sanction, become as cables of steel, and thus our pleadings become more and more involved, and justice more and more difficult to obtain. It has therefore been proven beyond the shadow of a peradventure that our present statutes requiring briefness and simplicity of statement are broad enough to permit, and in fact in all strictness require, the most technical pleadings conceivable. Hence it is useless to formulate a statute to cure the evils of the present system, unless that statute shall proceed further and provide the forms which shall be held sufficient and adequate; and we believe that the Alabama Bar Association, which numbers amongst its members so many of the learned and experienced members of the profession, should take immediate action in this matter, and not leave the drafting of these forms and of an appropriate statute putting them into effect, to a chance legislative committee, but should itself undertake this important task.

We have stated above our conclusions that the delays and expenses of litigation were chargeable, in a large measure, to our present system of pleading, and have advocated Code forms as presenting, in part at least, a solution of these questions. However, we believe there is yet another defect in our court system which, if remedied, would hasten the final disposal of cases upon their merits, and frequently prevent the miscarriage of justice.

According to our present practice, the losing party in

the lower court may reserve a bill of exceptions, appeal the case to the Supreme Court or Court of Appeals, and assign as error rulings on the pleadings, the evidence, the oral charge of the court and special charges given for appellee and refused to appellant, etc. The Appellate Court in its review of the case will pass upon those points only which are complained of by the appellant, and in many cases not all of the assignments of error are considered in the opinion. Under the old system which was in existence many years ago, we have seen cases where the court, having found error in the record necessitating a reversal, not only fully and clearly stated the law on such point, but examined the entire record and, as they said, "for the guidance of the lower court" on another trial, proceeded to settle other questions not specifically urged by appellant, and sometimes passed upon questions involved in the case which were not assigned as error—and which in fact were matters decided favorably to appellant and adversely to the appellee; thus when the case came on for trial a second time in the lower court, all the questions in the case had been passed upon by the higher court, and the trial judge was fully advised as to how he should proceed and how he should rule on the questions presented,—thus doing away with any necessity for a second appeal and hastening a decision of the cause upon its merits.

Under our present system, the higher court, even if a question be assigned as error on the record by appellant, it will be considered waived, and will not be ruled upon, if it is not "argued" by appellant's counsel, and merely calling it to the attention of the higher court, as by quoting the assignment of errors is ruled to be insufficient, and, of course, no error committed against the appellee is considered at all. With the immense labor devolving upon our Appellate Courts through our present complicated system of pleading, we can not attach blame to them for deciding no more than, by the present rule, it is compelled to decide, but we submit that with the construction of involved

pleadings taken from their shoulders; the appellate courts should be in position to take up all questions raised in a given case, and decide them—whether they effect the appellant or appellee, thus doing away with the necessity of a cross-appeal, and settling all the law of the case. The Act approved September 25, 1915 (Acts 1915, p. 815) amending Code sec. 5364, is a step in the right direction, as prohibiting a reversal for the refusal of the lower court to give a written charge, where although technically correct, the same rule of law has been substantially and fairly given in the oral charge or by some other written charge. However, this law does not go far enough, nor does the appellee have opportunity of showing to the court (unless a cross-appeal be taken) his side of the case, nor set up matters which, if they appeared in the record or bill of exceptions, would show that there was in fact no error committed against the appellant, or if error was committed, it was wholly without injury. In order that an appellate court can fully understand the proceedings in the lower court a statute should be passed, making the transcript of the stenographer's notes (if one be used in the trial) the bill of exceptions; in no other way can the appellate court get other than a one-sided view of the case and of the manner in which it was tried in the lower court. With only partial knowledge of how the case was decided below, the appellate court can not possibly construct a complete and perfect picture of the trial; it therefore proceeds to work upon the only thing that is before it, namely; the appellant's side of the case, and must of necessity wait until after the trial court has again passed upon the case, and judgment has been rendered just to the contrary of what it was in the first trial, that it can see what the appellee's side really is, and give it proper consideration. The case is thus decided piecemeal, and the appellate court at no time has the whole case before it. Let it be required in the lower courts that where there is a question propounded to a witness, and an objection sustained thereto,

that the party asking the question disclose to the court (with the jury excluded, if necessary) just exactly what the answer of the witness to such question would in fact be and let it be taken down by the stenographer; if documentary evidence is offered but refused admission on timely objection, let such documentary evidence be then and there shown to the court, and have the same included in the transcript—and this, whether such oral or documentary evidence be offered by defendant or plaintiff; in other words, let the appellate court be fully apprised of each and every thing that occurred at the trial; let the light be fully turned on; do not throw the spotlight on appellant's case and keep that of appellee wholly or partially in the dark. Many a case has been reversed by the appellate courts which, if all the facts and circumstances on both sides of the case had been clearly before the court, would have been affirmed, and many an error forming the basis for a reversal, would (if both sides of the question and all the circumstances were fully known to the appellate court) have clearly been seen to be "error without injury." It has become a common thing for us to pick up a decision and when we begin to read it see staring us in the face "this is the third appeal in this case." This should not be. It means that for three successive times the lower court has wrestled with the problems of the case, simply because the law was but partially understood. It means that unreasonable delays have occurred, and that enormous costs have accrued for one of the parties litigant to pay. It results that the complaint against the law's delay, and the immense expense of litigation, is lodged against both bench and bar by the business men of the State. It further means that unless repeated appeals are taken in the same case, there is great danger of a miscarriage of justice. When a case is appealed, the transcript should contain everything that pertains to the trial in the lower court, so that the whole matter may be intelligently reviewed by the higher court, and all doubt as to the law of the case should be set-

tled in the one appeal. There is no necessity of a cross-appeal (except that the law now demands) for the appellee to have a ruling on any question involving his rights in the trial court, and his every right should be settled by the higher court without the taking of a cross appeal.

Not only should the Supreme Court and Court of Appeals be required to decide all the questions in a given case which comes to them direct on appeal, but where the Court of Appeals has decided a given case of which it has appellate jurisdiction, after application for a rehearing has been filed in that court and overruled, and certiorari is granted by the Supreme Court, the last mentioned Court should have a free hand in the decision of such case and of every question in it; the Supreme Court should not in anywise be bound by and finding of facts by the Court of Appeals, nor should it be confined to a review of only such legal questions as have been passed upon and decided by the Court of Appeals; the entire transcript with the briefs of counsel should be sent up from the Court of Appeals, and the Supreme Court should examine the entire record and every question thereby presented, and should itself "find the facts" so far as an appellate court can find the facts, determine the issue, and make its own decision of all the legal points in the case on its own conception of the facts and issues just as if the appeal had been taken to the Supreme Court in the first instance. It is firmly established that the Supreme Court is not bound by the decisions of the Court of Appeals on questions of law, that it has supervisory powers over the Court of Appeals, and that in proper cases it will exercise such powers. Why then, and on what reasoning, should the Supreme Court be in anywise bound by a finding of facts or of issues by the Court of Appeals, any more than it is bound by the decision of questions of law by that Court; And why should it be restricted to such legal questions alone as the Court of Appeals deemed necessary for a decision of the case? We believe that on certiorari the Supreme Court should ex-

amine the entire record, make its own findings and decide the whole case upon its merits, without regard to anything which may or may not have been done or decided in the Court of Appeals.

We have devoted much time in this report to the question of doing away with technical pleadings, and to the regulation of the practice and procedure in our higher courts. In those matters, such of the members of this committee as have been able to confer over this report, are in perfect harmony; but there is one other question on which your Chairman thinks we should touch (as to which the committee is not fully in accord), and as to what is said on that question (the re-establishment of our chancery courts) your Chairman assumes full responsibility.

I am convinced that the legislature of 1915 made a fatal mistake when it made way with courts of chancery and gave to the circuit court jurisdiction of equity cases. At the last meeting of this Association it was said by the then Chairman of this Committee that "the opinion of the Bar seems to be divided on the question of separate chancellors;" his statement was correct when made, and to an extent is still true, but we have had one more year's experience under the Act of 1915, and I believe that the present system, whereby jurisdiction of both law and equity cases is vested in the circuit court, has now been "weighed in the balances and found wanting." It seems to me that these two branches of the law have been "unequally yoked together" on one court and that equity has gotten decidedly the worst end of the bargain. I do not deny that there are some judges now occupying the circuit court bench who have skillfully handled their equity cases, but I affirm that they form the exception, and not the rule, and that equity cases have not been as uniformly well handled or as speedily and correctly decided under the present system as under the old. It should be remembered that the old chancellor was a specialist, whose whole time was devoted to this branch of the law while the circuit

judge with chancery jurisdiction must wrestle with the problems of the law court as well as the intricacies of the courts of equity. It has been well said that the law is a jealous mistress. I believe that it might appropriately be added (if the figure of speech be permitted) that equity is even more jealous than the law, and will not stand for a divided allegience. The lawer who devotes himself exclusively to equity matters is by far the best equipped for the practice of that particular branch of our profession. The one who handles personal injury cases exclusively becomes an expert in that kind of litigation; the lawyer who devotes his entire time to corporation law becomes more highly skilled therein, than the general practitioner; and the judge who devotes his whole time to the solution of equity cases must of necessity be better equipped as an equity judge than one who gives one-half of his time to that subject. The underlying principle of specialization has not only been adopted, but has fully justified itself, in the commercial world, the realm of mechanics and in all of the professions including both law and medicine. The man who best succeeds in any line of endeavor is he who devotes his life to the accomplishment of some particular thing, who makes of himself a "specialist." Some of our most important litigation involves the solution of complex equity questions, and should be heard and decided by a judge whose whole time is engaged with questions of equity. This demands the re-establishment of courts of chancery presided over by chancellors who are experts in that branch of the practice.

The Chairman stated that one member of the Committee had just sent him the following suggestions, which he asked be incorporated in the report of the Committee, which supplemental report of the Committee was as follows:

A Few Suggestions in Regard to Chancery Pleading and Practice.

1. When a demurrer is filed it ought not only to be subscribed to but the solicitor filing it ought to be required to certify that, in his opinion, it is good, and that it is not filed for delay.

2. In order to appeal from a ruling over-ruling or sustaining a demurrer, the injured party must apply to the court to grant an appeal and the court ought not to grant the appeal unless, in the opinion of the court a decision on the demurrer will settle the case or some important principle involved in the case, or will materially shorten the case, etc.

3. When a demurrer is over-ruled or sustained, and an appeal is not allowed or granted by the court, the opposite party must answer forthwith as in cases at law, and the taking of testimony not delayed.

4. All testimony should be taken orally before the Judge, except in cases where testimony may be taken by deposition at law, and the testimony should be taken down by the court reporter and transcribed and filed in the case and be a part of the record. The rulings of the court on testimony, during the taking of testimony, should be shown by the reporter, and on appeal error may be assigned thereon, and it ought not to be necessary, on submission to note objections to testimony taken orally but only where testimony has been taken by deposition, and where taken by deposition, the deposition should be a part of the record, as should also the objections to testimony noted, and error may be assigned thereon. It ought not to be necessary for the decree to show rulings admission of testimony taken orally, and where testimony is taken by deposition the decree ought to show rulings on objections noted.

REPORT OF
THE COMMITTEE ON JUDICIAL ADMINISTRATION AND REMEDIAL PRROCEDURE

FRANK DOMINICK, Chairman
OF BIRMINGHAM

Mr. President and Gentlemen of the Alabama State Bar Association:

The past year has been a momentous one in the history not only of our State, but that of the nation, as well. We have lived during the past twelve months in a period of change and progress such as the world has never seen. Almost overnight, unexpectedly to the great mass of the world's inhabitants, the world war came to a close, in November. The physical map of the world has been redrawn. A large number of the Governments of the world have been remade, the world's thinking and its view-point have been revolutionized, and we stand today upon the threshold of an era of development and progress, with mighty forces contending with each other for the mastery. Our judicial system has stood well the acid test of the times and with some needed and suggested changes is prepared to continue to stand the test of the same character that shall come in the development and challenge of the new era upon which we are entering. Would-be reformers are not lacking who see nothing good in the administration of the law and condemn our judicial procedure without reservation. Long-haired agitators condemn without judgment and there are those in this country who would tear down and destroy all law and its institutions which have been the outgrowth of the thinking and experiment of the years. Certain changes may be necessary and are necessary to meet the changed and changing conditions, but there is nothing fundamentally wrong with the present American system of law and justice. Evolved as the fruit of the experience of the centuries, we need pay no attention to the

reformers and the agitators who would utterly destroy the system. We should turn a willing ear to those proposed changes which would make the system conform to the new spirit of the age. As lawyers we should be ready to accept any and all changes which will facilitate justice and right, but at this time, as in no other time in the history of our country, we should continue, as lawyers have done in the past, to be bulwarks against the rising tide of socialism bolshevism and anarchy which is sweeping with perhaps a mightier force than we think towards this country from the continent of Europe.

In keeping with the spirit of progress, we now look at the youthful offender from the standpoint of mercy as well as that of abstract justice, from the standpoint of prevention as well as that of cure. In the beginning of this report we desire to reiterate the recommendations of this Committee in its last annual report with reference to courts dealing with juvenile offenders and having jurisdiction over domestic relations. These courts have functioned well and filled a long felt need. We recommend their extension and the enlargement of their jurisdiction especially in the field of domestic relations. Courts with jurisdiction over many of the cases, both criminal and civil, growing out of domestic relations have filled a distinct need in our larger cities. These courts have saved many a youthful offender, have guarded zealously and well the welfare of women and children and we heartily recommend the extension of the principle involved wherever possible, even if it is not feasible to establish additional courts.

Some of the circuits of the State, by reason of the failure of the redistricting bill in 1915, are badly in need of rearrangement. Some of them, especially the Tuscaloosa and Anniston circuits, and we refer to these circuits by the name of their principal cities, stand in need of immediate relief. The Marengo and Lee circuits are out of proportion with those of the rest of the State and should be enlarged and assistance thus given to the first two circuits mention-

ed, if no other move is made in the coming session of the legislature towards recircuiting the state. In this connection we note an effort on the part of some members of the legislature to cut off some of the judges in the three largest counties of the State, Jefferson, Montgomery and Mobile. A majority of the members of this Committee are personally familiar with the courts of these three counties, are acquainted with conditions existing in those counties and the rapid progress now being made in gain of population and increase of legal business. We recommend that this association go on record as being against such reduction, since it is highly important that there by no congestion of the dockets in our large centers of population, and we further recommend that the Secretary of this Association communicate the fact of this recommendation and its approval by the State Bar Association to the Recess Judiciary Committee of the Legislature.

The question of shortening the time for appellate proceedings has received the attention of the Committee. Appeals should be speedily disposed of. The machinery involved in appellate procedure during the last few years has worked with much more promptness than was formerly the case. Our appellate courts have been engaged in an earnest effort to keep up with their dockets continuously and they have succeeded most admirably. However, it has occurred to the Committee that the time for signing of the bill of exceptions by the Presiding Judge could be shortened to 30 days after presentation and further than the record and briefs on all appeals should be printed. By requiring the printing of records and briefs a large number of appeals, without merit, would be eliminated and we do not think the cost of printing would deter any litigant from taking a meritorious appeal. While we are talking of appellate procedure, we respectfully suggest that the present system of consideration of appeals by our Supreme Court by divisions of the Court has not been satisfactory to the bar of the State. We believe that the consideration of ap-

peals by the entire Supreme Court will meet with the almost unanimous approval of the Bar. We do not wish to be understood as criticising that court, but we believe we speak correctly when we say that with almost unanimity the Bar of the State would welcome the consideration of appeals by the entire membership of that Court.

The Committee recommends that in circuits and courts with a Presiding Judge and Associate Judges, the plan of setting of cases for trial before the Presiding Judge should be followed. Quarters sufficiently large can be obtained probably in every such Circuit and we believe that the plan would work with satisfaction, as it has in other jurisdictions.

The Committee repeats the recommendation made in last year's report that the jurisdiction of the Circuit Court be changed to the minimum amount of Two Hundred and Fifty Dollars and that Inferior Courts be created in each County to take care of all controversies involving sums below that amount, and that the present system of Justices of the Peace be abolished. These Inferior Courts would not add any expense to the Counties or the State, would lessen instead of increase the number of officers, and would work with success and satisfaction in practically every County of the State. Means of communication have been vastly improved since the establishment of Justice Courts, the advent of the automobile has taken place and it appears that we are already in the midst of a program of road building which will take in every County. Almost every precinct in the State is now in close touch with its County seat and no hardship will be worked by the transaction of the business now done by the Justices of the Peace, in one or more central locations. We believe that a better administration of the law would result, though we must by no means be considered as casting any reflection upon the well known legal learning and ability of those now holding the offices of Justices of the Peace. Their wisdom and legal learning need no defense from this Com-

mittee. Their deeds and their decisions speak for themselves and for them. These worthy officials have no fear of the principle that "by their fruits we shall know them." They have served well their day and generation and are entitled to the well-earned rest their labors deserve. The plan proposed will require a Constitutional Amendment, but we think it should be discussed and referred to as often as possible, so that our people may be prepared for its adoption at the proper time.

Some criticism has been passed upon the indeterminate sentence law recently adopted by the present Legislature. Some of the Judges have construed the law as requiring the imposition of the maximum sentence in each offense. If the law is capable of any such construction, the ambiguity should certainly be cleared up by the Legislature at once. The law has also been rather severely criticised because of the great power vested, according to the critics, in the Wardens of the penitentiaries with reference to recommendations for pardons or paroles. The law ought to be so amended as to properly bestow beyond any doubt the pardoning and parolling power in the hands of the Governor. The approach to that power ought never to be at the mercy of any one man or set of men.

Personally, the Chairman of the Committee is of the opinion that the pleading of defenses should be made as simple as the stating of causes of action; that the same general terms should be allowed in pleading by the defendant as are given to the plaintiff. Some members of the Committee are in favor of such a proposed change and others against it, and we do not embody this in this report as a recommendation of the Committee, but the writer has taken advantage of his position as Chairman of the Committee to personally express his views along this line. He is of the opinion that pleadings of all kinds should be made as direct and simple as can possibly be done in order that the Judges and the lawyers may understand the issues and be able to intelligently explain them to the jury. The

adoption of Rule 45 has to some extent diminished the reversel of cases in the Supreme Court because of technicalities in pleading, but the writer is of the opinion that we have not yet gone far enough along the line of the simplification of pleading.

The Chairman has received from Hon. Richard V. Evans, Assistant Attorney General, and a member of this Committee, an extremely interesting list of recommendations which he thinks should be enacted into law. Most of these recommendations properly belong to the Committee on Jurisprudence and Law Reform. They were not received in time to submit them to the other members of the Committee. For that reason we have not as a Committee been able to pass upon the various matters suggested. They are, however, extremely interesting and most of them to the Chairman appear of much advantage. Because of their general interest, submit them to the Association for their consideration. They are as follows:

1. It very frequently happens in the examination of titles to real property that affidavits have to be secured with reference to heirs of intestates and the probate of heirship in such cases would be highly desirable, showing to whom the property descended and obviate a great deal of collateral work on the part of the profession, and not infrequently bridge over apparent defects or lapses in the chain of title. In other words, when persons acquire property by inheritance there should be some record filed of it.

2. A bill should be prepared allowing "cumulative voting" for directors, thus in some measure preventing the freezing out of minority representation on the Board: e. g. where five directors are to be elected and say the stockholder has ten shares; instead of voting his ten shares for each of the five directors, permit him to vote fifty shares for one director, and by this device, as is the case in New York State, the minority may have a voice on the Board.

3. In matters of partnerships using the words "& Co." to require to be filed in the probate office a list of the part-

ners, so that parties dealing therewith may know whom to sue.

4. A bill to the effect that where a house on leased land (other than farm land) is totally destroyed by fire, that it work some abatement or decrease of rent without a special clause in the contract to that effect, such abatement to continue so long as the land remains without a house unless this rule be altered between the parties by special contract; in other words, recognize the fact that the object of the lessee is to rent the house as well as the land.

5. A bill authorizing all written contracts or any instrument in writing except wills to be acknowledged as deeds and to be made self-proving.

6. Abolishing the distinction between larceny and embezzlement, since both are punished alike, and the certified distinction frequently opens the door of escape through technicality.

7. Amendment of the Constitution or Act making a vote of nine a verdict of the jury in a civil case.

8. Abolition of the rule making contributory negligence a plea in absolute bar; instead permit the jury to weigh or compare negligences of each party and according to the facts as found by the jury to operate either in bar or in diminution of damages as the jury may determine. In other words adopt a rule analagous to Federal Employers Liability act as to operatives of interstate carriers.

9. A constitutional amendment for biennial sessions of the Legislature.

10. A bill permitting burglary committed at a dwelling house in the night time to be punished capitally in the discretion of the jury, since in the commission of this offense a burglar always goes armed with the intention of committing murder if the necessity confronts him, it should be dealt with sternly or made possible to do so in aggravated cases in the discretion of the jury.

11. Since under our Constitution laws cannot be amended by reference to the title merely but the entire matter

must be published anew, it frequenty happens that lengthy statutes are amended in some minor particular by adding a "rider" or proviso, a bill should be enacted which should be directory merely requiring that all amended matter be published so that the amended portion thereof be set out in italics and so that it may readily be seen what change is made in the law without the necessity of wading through pages of matter.

12. A bill making voidable the settlement of a damage suit within thirty days from the accident where it is made to appear that one of the contracting parties was at the time of settlement ill or suffering from the accident, the presumption being indulged that when it is made to appear that the party was ill or suffering from the effects of the accident that he was incapacitated to contract or, on the other hand, that it was contrary to public policy within the 30 day period, thus eliminating the race between the ambulance chaser and the claim agent.

13. A bill substituting the electric chair for hanging.

14. Making it a misdemeanor for any public officer handling public funds to deposit the same in a bank in his own name.

15. A bill to strengthen the present insurance laws to be fashioned on the idea of the banking act, conferring upon the Insurance Commissioner powers similar to those conferred upon the Superintendent of Banks with reference to taking charge and control of, and to prevent the writing of insurance by any company doing business in this State when it shall appear to the Commissioner to be in such unsafe or precarious condition as to jeopardize the interest of policy holders, and so that he may prevent such insurance companies from writing further or additional policies while in such unsafe condition.

RICHARD EVANS.

In conclusion, permit us to repeat the sentiments expressed in the beginning of this report. Law and its or-

derly administration stand as the corner-stone of this Government. Our society is built around our system of law and its just administration. These are times when men are attacking the law; when men condemn and seek to nullify its administration by constituted authority; when men wish to abolish the law and with it the institutions whch have been builded upon its proper and righteous administration. In the midst of these demands, some of them for the time with the plaudits of the crowd, lawyers should stand firm for the law, for its institutions and their just administration, in order that justice may be done, the right prevail and the rich heritage of our fathers preserved, as they gave it to us, a republic in this western land of law and not of men.

PAPER BY

SAM C. JENKINS

OF BAY MINETTE

LIBERTY VS. THE HERESY OF PROPAGANDA

A law passed simply to please the majority may, in the end, lead to Bolshevism, which word, in its primary meaning, is the rule of the majority. The example of Russia ought to be enough to convince any intelligent people that a system built on such a doctrine is faulty in the extreme and subversive of the aims and purposes of government which is to protect society. It is easy to start a fire but it is sometimes very difficult to put it out; this applies to all reforms which rest for support upon the principle of the majority. The majority aroused to action by agitation, propaganda and orgnizations, organized for the express purpose of agitation, pass the law and when, the enthusiasm and "hue and cry" is over, the very elements of reform go to pieces and are unable to resist other and greater departures of government. While the doctrine of kings and their divine right to rule has long since been exploded, we should not go to the other extreme and set up the principle that the people are themselves all wise and can make no mistake. The people of France did this in the good year 1792, exactly three hundred years after the discovery of America by Christopher Columbus. The birth of the Great Western Republic in 1776 in the New World forever shattered the doctrine of Kings and in its place set up the idea of a Democracy, regulated by law under a written constitution of a balance of powers in the government, which, in effect, was the establishment of what is known as the principle of the concurrent majority. France, imbued with the principle of liberty, followed the example of America and tried to establish the rule of the people per se as a system of government and the vote of the Commune as the standard.

The result was the bloodiest revolution in all history, ending in the establishment of the Empire under Napoleon. We are today, in America, fast approaching a crisis in our national life; in the name of the people, the doctrinaires, reformers and propagandists, will have the people themselves to forge the chains, which, in the end, will bind them to a system of universal discord and discontent, without a chart or compass to go by except the never ending cry of the agitator. Your modern reformers tell us that it is now necessary to bring morality, religion and women into our politics in order to reform politics and purify the government. If they should fail in their high purposes what have they accomplished? They will have done one thing, we may rest assured of; they have brought politics into our churches and our homes and corrupted the very fountain sources of morality. A morality enforced by law will be as great a menace to true religion and individual liberty as was ever its recent prototype, German Kultur, enforced by the sword, which so recently sought to fasten its beneficient and benign influences upon the free peoples of this Earth. That the Germans believed in their wonderful mission to enlighten and rule the world with their wonderful Kultur was no mistake. That the so-called Progressives and Prohibitionists of America have gone into politics is neither any mistake. They have captured America with their propaganda and now seek for new worlds to explore and conquer. They believe in the doctrine of fighting the devil with fire and they resort to all the wiles and tricks of politics to carry their points in the game. The Anti-Saloon League and the Women's Suffrage Party are the organized forces by means of which they carry forward their banners of propaganda. Both the old parties of the Union are powerless to resist the strides of their progress and power. Organized labor is the only organization able and powerful enough to even defy the utterances of their challenge on any subject or question. Organized labor has drawn up a new Bill of Rights and written a new

Declaration of Independence which, while it sounds good for democracy on some points, still smacks more or less of class and classism. What capital will say in reply to its demands, remains yet to be seen and heard. We are sure of one thing,—that tremendous forces are at play in our republic today, that will shake the old citadel to its foundations. It seems that the hour is upon us of which the eloquent Henry W. Grady so prophetically spoke when in his great Boston speech he said "old ideas, thoughts, maxims and principles no longer serve to still the fierce beatings of the great heart of humanity; that man with uplifted brow and tingling nerve is about to move forward to another stage of his unknowable destiny. That it is then the duty of every true American to gather up every truly American ideal, principle and thought, and enshrining them around with the heroic memory of the past, hand them on down to generations yet unborn." This is my idea of democracy, my idea of our duty in this crucial hour.

It was Mr. Madison who said: "The happy union of these states is a wonder, their constitution a miracle, their example the hope of liberty throughout the world and woe to the ambition that would meditate the destruction of either." Let the forces of reform now mad with power and strident with new efforts to forever and a day fasten their pet ideas on the people of this country, take due warning from this admonition from the father of the constitution, when through the very mode of amending the wonderful instrument described by him as a miracle, they seek to make the amendment process a propaganda for destroying the retained rights of the people of the different states of this glorious union of indestructible states. Mr. Madison speaks of the constitution as "a compact among the states in their highest sovereign capacity and that it cannot be altered or annulled at the will of the states individually as a state constitution can or may be at the individual will of a sovereign state."

It was Mr. Calhoun who said: "While for all practical

purposes it is believed the amending power is safe as an amending power, yet the amendment should be the acts of the several states—each counting as one and not the act of the Government" (meaning the general government). "However," he says, "it would be difficult to conceive a case where so large a proportion as three-fourths of the states would undertake to insert a power by way of amendment which would deprive the remaining one-fourth of any right essentially belonging to them as members of the union or which was clearly intended to oppress them." "That when properly understood and exercised as an amending power, and not as a judicial or political power), it is the medicatrix of the system; its great repairing, healing and conservative power, intended to remedy its disorders in whatever causes or causes originating." How do these high ideals of amendment to the Constitution compare with the desperation, fierce fanaticism and political activities of the Anti-Saloon League and women suffragists in urging the submission by the Congress of the recent amendments They started out by baiting, browbeating and defying the two political parties then existent —the Republican and the Democratic; they practically forced the two candidates for the Presidency to swallow their propaganda in order to get the votes of the propagandists. In the midst of the greatest war of all history for liberty and the rights of people to be free, they did not hesitate to rock the boat and hold up three National Congresses on important war measures in order to pass either favor to propagandas.

Mr. Calhoun says: "Our government ordained to protect the rights of the people of the different States and to secure to posterity the blessing of liberty, can continue to guarantee this pledge only so long as it maintains its equilibrium, its nicely adjusted balance of powers; once disturb this equilibrium and it at once ceases to function as a union of federated States; it will become either a pure democracy or a national government with strong central-

ized powers." No doubt, our prohibition and women suffragist reformers will say this is alright for we will in either event have a better government than we had or that the framers founded. Let's examine the point made a little further. As Mr. Calhoun has so ably already pointed out, the duties of President and of the Judiciary are fixed by the terms of the constitution itself and there can come no encroachment from either of them, without the aid of Congress. For it is only on the Congress it bestowed any discretionary powers at all. And thus it is only from the Congress and from Congress alone can come any danger to our liberties under the constitution. Whenever the Congress deliberately delegates any of its powers to legislate on any subject whatever, it immediately, and at once, disturbs the equilibrium and, in a measure, at once threatens a derangement of the system. The President himself, though he be selected by an overwhelming vote of the people, can do nothing absolutely himself without an act of Congress. Thus it is upon the Congress depends the perpetuation of our institutions. The work of aggression must come, if it ever comes, by its act or by its permission. What then is the indictment made against the present Congress that it should be turned out of office after winning a great war and hardly before peace was assured?

Getting back to the subject. It was Mr. Tyler of Virginia who said that Congress cannot delegate its legislative powers. "If any one, it may be all and thus a majority here (meaning the two-thirds in case of amendment(can change the very character of the government. The President might come to be invested with authority to make all laws which his discretion might dictate. It is vain to tell me that I imagine a case which will never exist." I tell you, Sir, that power is cumulative and that patronage begets power." Mr. Tyler thus foresaw a time when a President might be elected by such an overwhelming majority that a servile Congress would be only too

willing to do his bidding and all that the propagandists or reformers would have to do, would be to get the ear of the President and, as most candidates for this high office generally ride every popular hobby that is on the go at the time, as a matter of course, the President would be practically pledged to all the reformers and propagandists. If any question is of such general interest as to affect the whole people and is undisputably for the general good and public interest, it is the duty of the Congress to legislate directly on the subject and leave the matter to the courts to decide, unless manifestly unconstitutional. All questions of reform or amendments to the constitution should, by all means, be first submitted to the bar of public opinion and then ratified or rejected by the votes of the people themselves. Mr. John Tayler of Carolina who offered the famous Virginia resolutions, said in his opening speech: "We appeal to public opinion; if that is against us, we must yield." Public opinion, after this appeal by Virginia was made against the odious Alien and Sedition law, was answered by the people turning out of power the Federalist party and there was no need to repeal the law or call for the proposed convention of the different states to amend the constitution. The agitation over the recent Federal amendment has already resulted in the defeat of the present party in power in Congress, which submitted the amendment and if the law is vigorously enforced in the doubtful states of the Union, it may result in the election of a Republican President at the next election. History often repeats itself. As a Democrat, I hope not; but if that is the result of the rule of faction and propaganda in our party, the result will be one which is characteristically American. For if America stands for anything, it stands for the liberty of the citizen and an absolutely fair deal in all things, whether it be things political or things otherwise. The very spirit of American liberty is resistance against tyranny and wrong. If our party wants to win in the next election it must absolutely divest itself of every-

thing which smacks of propaganda, demagoguery, priestcraft and outside interference by propagandists of all types, "hues and cries."

It is too late to beat a retreat, but we must go forward forgetting the past and looking forward solely to the future with hope and expectancy. Intelligence and virtue will continue to rule as it has in the past, but that without regard to sex, race or previous condition of servitude. The intelligent negro will be given the ballot as the intelligent white woman has been given it; that they will divide along the lines that the intelligent white men used to do, is not to be denied or gainsayed. The new spirit that will arise out of the complete welding of all people of the community into an intelligent and self-ruling entirely will, in time, assert itself correctly. "Let come what will come, let run what will run, this is the way the water goes over at Lodore" is an old song and time approves it true and things will continue to come and things will continue to run and I trust that we may all be the wiser thereby. I say, let the saloon and all that it represents die the death it so justly deserves to die; but, in burning up Satan's Temple of Booze, let us not allow him to catch up a firebrand with which to light a fire under the temple of liberty itself, and thus permanently divide our people into Prohis and Antis on all questions of government, morals and religion, rather let us be a congregation, as St. Paul said, of one mind and always obedient to the law; if the eating of meat offend our brother, for that reason and for that reason alone, let us resolve to eat no meat.

Liberty of opinion and of conscience on any subject of moral or intellectual moment has never been embodied in the constitution or in any of the amendments hereto adopted which yielded the control and surveillance to the Federal government. The amendments now before the American people pre-suppose that the entire people by process of reform have arrived at a point in their history where they are willing to trust the national government with all

the responsibilities that may follow their adoption or ratification. What the next amendment will be remains to be seen. It may be upon the question of taxation and the regulation of railroads, mines, factories, etc., prohibiting any state from passing any law thereon and remanding such matters absolutely to the control of the Congress. The people who own property in such utilities do not wish to be mulcted by both the Federal and State governments no more than the private citizens who own wealth wish to be burdened with a double income tax by the State and the nation. An amendment, possibly, could cure these evils. Thus does the vista of amendment open before us, when once the curtain is lifted. "Great is the Diana of the Ephesians" was the cry of the Greeks, but, as for myself, I fear the Greeks even when bearing gifts.

The old Federalist party after winning the adoption of the Constitution and being safely installed in the administration of the affairs of the government, went out of office forever, when it forsook the teachings of Mr. Madison, its great leader and founder.

Since the days of Jefferson, the Democratic party has shaped the destinies of the nation and made our government what it is,—an union of indestructible states; even when it was in the minority, it has proven to be the sheet anchor of the Constitution, through the system of checks and balances of the Senate and the Federal Judiciary. It was the Dred Scott Decision which nailed to the cross the propaganda of the Abolition party before the war and forced its rabid adherents to decry the constitution "As a compact with Death and a League with Hell." After the fire eaters and fanatics had run their course and plunged the country into civil war for four long years, it was the Federal Judiciary, rising serene and unperturbed from the storm, that declared that except that insofar as the Fourteenth and Fifteenth Amendments had changed the organic law, the rights of the states were the same under the constitution as they had always been and with the restoration

of peace and civil government in the South, the rights of the citizens thereof remained as of yore, and immediately that constitution, described by Mr. Madison as a wonder, began to function and all the efforts in Congress of Thad Stevens and others of his kind to oppress and destroy civil liberty in the South became fruitless, as against the might of mind and forensic ability of such men as Ben Hill and John T. Morgan. The right of debate in the United States Senate defeated the iniquitous Force Bill on more than one occasion. It is reported of Senator Morgan that at one session of the Senate he spoke for three days and thirty-six hours without leaving his place, in order to hold the floor against the tactics of the fanatics, calling for a vote all the time. Strenuous times and occasions call for strenuous methods and this was a time that called for them and the great Morgan did not fail to take advantage of it. Democracy has always heretofore helped to steer the old ship of state along the lines and in the course intended for her to take by the founders and framers of the government from the beginning. All honor to the Democratic Party, as the conserving element of this great nation in times of stress, great excitement and wild fanaticism. Will she in the future remain true to her old time instincts and precedents? Is she true to them today? These are questions that great party will have to answer at the next Presidential Election in 1920, just one hundred years from that time when its influence in the nation was puissant, when James Monroe was elected in the year of the "Era of Good Feeling," contentment and satisfaction in the nation. If as a party, she turns back to her old ideas of democracy, truth and justice, and renews her old age in her youth, she will yet prove to be the sheet anchor of the constitution and again bring about another era of good feeling among all the people of this great country. So mote it, Almighty God. May God save Democracy and the liberties of our people, if our modern leaders of the party, in order to catch the will-of-the-wisp of propaganda, to

head off and corral the so-called "progressive party" or prohibition party, abandon the teaching of Mr. Jefferson, the great founder of the party, who claimed for himself his greatest acts to have been, as the author of the Bill of Rights, the Declaration of Independence and Founder of the University of Virginia. Will the party forget James Monroe, Andrew Jackson and Grover Cleveland and the great victories they brought to the party; will she ignore the writings of Mr. Benton, Mr. Calhoun and other great statesmen of the past? When, as a party, Democracy plants her banners on the heights of fanaticism, radicalism and propaganda, she changes from the whole course of her history and becomes merely a people's party, more progressive than popular, but no longer democratic. The South, led on by the ignis fatuis of propaganda, has contributed in no small degree to bring about these results; it remains to be seen, if she will not swallow Federal Woman's Suffrage and the equality of the ballot to all women which she has denied to some men. It is to be hoped her disillusionment has come at last and that she will yet awake from her dream and seance of propaganda. If she does not and does not do that soon, we will see the party of Jefferson go out of power forever as went the party of Madison, after the winning of the Revolutionary War, flushed with honors and clothed in all the habiliments of office and the powers of the government; and, as she goes out, we will see the old Republican and Radical Party come into power, shouting the shiboleths of state rights and other old time slogans of democracy and singing the victory peans of individual liberty and the rights of the citizen as against the centralizing powers of a bureaucratic and propagandic government. If this state of affairs continues for an indefinite length of time, with no hope of check or re-action there is trouble ahead for that party which permits the reformers to use it as a tool and hobby horse, so to speak, for the propagandist to ride his hobby in on. It is time for Democracy to awake to a realization

of the dangers which confront it in this boasted land of Freedom and Liberty. The party leaders, in both of the great parties, with a few exceptions, appear to be time-servers or have not the courage, wisdom and true spirit of liberty whirh characterized the statesmen of the pre-war period of the republic. Such as Clay who said he would rather be right than be President, or Mr. Calhoun of whom Jefferson Davis said, "nothing mean or impure ever came near his head or heart and of that bright galaxy of statesmen of his age, was the most foremost, the Copernicus of the system." Of Davis and Lamar, Howell Cobb and Ben Hill, or such later leaders as Hendricks, Tilden, Bayard, Thurman and of Cleveland. Has the race of such type of men gone to seed? The entrance of men of great wealth into the arena of state and national politics; the corruption of the individual voter, the wiles and tricks of the machine politician caused the abandonment of our old system of convention nominations and are some of the causes that have lead to the result; the system of the primary, while it broke up machine politics and convention rings, opened the door to organization, agitation and propaganda. Now every candidate for a high office must have an issue to run on, even if he has to manufacture one; the dear people have to be worked up and it takes money, organization and propaganda to do it. The whole question now is, who shall be elected governor, president and we have, in effect, a majority system of government against which Mr. Calhoun so ably and eloquently prophesied.

To guarantee the inalienable rights given of God to man and to secure to posterity the blessings of liberty, the framers of our government adopted a written constitution, the purpose of which was to counteract the tendency of government to oppression and abuse, to hold it strictly to the great ends for which it was ordained, to prevent those who are invested, fo rthe time being, with the powers of government from employing them as a means of aggrandizement instead of using them to protect and pre-

serve society. This Mr. Calhoun says cannot be done by instituting any "higher power in the government—it would be but to change the name and seat of authority and in the end this higher power would in reality be the government. For illustration, were we to put the government in the control of all the railroads, telegraphs, mines, factories and great industrial agents if the country, it would mean that in time the men who control or run these great and powerful agencies would become our rulers and be the government, with the same tendency, on the part of all those who are invested with power, to pervert their offices into instruments or aggrandizement and selfishness; and suffrage or votes will not settle the question at all, but will only lead to a further conflict of interests, each interest striving to obtain possession of the powers of government as a means of protecting itself against others and of advancing its own interest regardless of the interest of all others. The result would be, we would establish an office holding class. We would have one class who would pay the taxes and another class who would receive them and men, instead of looking to their own individuality for business and enterprise, would join the government party to get a job or a pension and the government itself would soon become a bureaucracy.

But with liberty secure to each individual, the individual will be free to pursue the course he may deem best to promote his interest and happiness. Thus liberty and security are absolutely necessary for progress, improvement and civilization. While security gives the assurance to each individual that he will reap the rewards of his labor and fruits of his exertions to better his condition, insecurity would tend to weaken the impulse of the individual to better his condition and thereby retards progress and all improvement. Liberty in a sense of security is the antithesis of unrest, agitation, excitement and propaganda on all questions of a public nature, which tend unduly to excite

the public mind of the people and thus draw them away from their every day affairs of life.

The surest and safest guarantees of stable government, peace and order in society is to give to each individual the utmost liberty, so far as it is practical and compatible with the ends for which governments are ordained.

We all admit that the object of government is to protect and perfect society; that to do this is necessary to guard the community against injustice violence and anarchy within and against all attacks from without; that to perfect society we must develop the faculties, intellectual and moral, with which man is endowed. But, as Mr. Calhoun has well said, in his great work on government, "the mainspring of their development is the desire of the individual to better his condition and for this purpose liberty and security are indispensable. That while knowledge, wisdom, patriotism and virtue are calculated to exert the greatest influence in forming the character of a people, yet neither religion nor education can counteract the strong tendency of the numerical majority to corrupt and debase the people and a government based wholly on the numerical majority would just as certainly corrupt and debase the most patriotic and virtuous people; and they will, in the end, be controlled more or less by cunning, fraud, treachery and party or partisan devotion" "but in a government of the concurrent majority, where at all times the minority had a veto power more or less on the majority of some kind, this would not be the case," says Mr. Calhoun, "but, on the other hand, under such a government, were it possible for a corrupt and degenerate community to establish and maintain an organized government, such a government would itself purify and regenerate the character of the people who compose the community;" "that if you so extend the powers of government as to contract the sphere of liberty, you, in a measure, strike down the individual to better his condition and do away thus with the mainspring for the development of his faculties, both moral and

intellectual. That liberty is a reward to be earned and not a blessing to be bestowed on all alike, gratuitiously, and not to be bestowed on any people too ignorant, degraded and vicious to be capable of appreciating it or enjoying it." Those of our modern reformers who are now urging universal suffrage as a boon of providence which has been brought about by the agitation of fanatics and propagandists, should study well these words of the great statesman who said that its due and proper exercise as a mark of liberty was, in fact, a reward reserved by an allwise providence as a distinction for the development of the moral and intellectual faculties. Have the scrub white women of the North and the washer colored women of the South reached that high point in development that the greatest boon of liberty, the right of suffrage, is to be gratuituously bestowed upon them? Do a majority of the intellectual, moral and virtuous of our women desire this boon offered to them?

It was Professor Minor of the University of Virginia who said one day, in a lecture to his law class of young men from all parts of the South: "Young men, be slow—very slow—to depart from a law, a custom, an idea or a principle long established among an English speaking people. What have been our ideas, our customs, our laws and principles along these lines for a hundred—aye a thousand—years of English history? I will leave this subject for an abler and better pen than mine to write of. We of America are English. While our laws, institutions and customs are all more or less founded on the English model, there is this difference. When the colonists came to this country, they brought all the civil life, laws, maxims and constitutional bulwarks of English liberty with them and founded America. But America was not all English and all of the people did not have English ideas. The English colonies of Virginia and Massachusetts wielded a controlling voice in the formation of the government. Massachusetts and New England were Puritan and Virginia was of aristocratic and

royalist antecedents; these two extremes met and united to form the commonwealth of liberty. They adopted a written constitution that the fundamentals of English liberty as then interpreted and practiced in the colonies, might be made perpetual. The founders did not know how long the people would remain imbued with the purely English ideas of government and they took no chances on the future. Concessions were made by all the colonies in the adoption of a Bill of Rights of such things deemed then to be inalienable and thus they hoped to make them not the subject of future controversies. They anticipated that many peoples of the over-crowded countries of Europe would come to the land of liberty, bringing with them their own peculiar ideas of law, justice, religion, etc. They anticipated that from internal agitation and commotions, efforts would be made, from time to time, to overturn the fixed muniments of liberty they undertook to embed in the foundations of the government. For these reasons and others they adopted the form and plan of government we now have. By the process of amendment all these things can be changed. So far, the changes have been made along the line of construction. The Democratic party holding to a strict and literal construction of the meaning of the constitution and the bill of rights and the Federals, Whigs, and Republicans and now the Progressives and Prohibitionists to a liberal and loose construction; a construction, in fact, which amounts to a misinterpretation and not a construction of all, but a bold and undisguised attempt to change the very document itself. This is now the great propaganda before the American people. The propagandists, however, are not willing to abide the slow and deliberate march of public opinion, but they propose and do, by the act of the Congress and the different legislatures, what the people originally did by their selected delegates in convention assembled and they do not even give the people a vote on the subject set for amendment. If this is not revolution I would like for some one to define what the

word means. In England, such a thing would be impossible for the very fact that all the people are English and through centuries of struggle for liberty, right and justice, they know, as individuals, the full meaning of these words. They need no written constitution to vouchsafe to posterity the blessings of their laws and institutions; the moment the government oversteps the bounds on any question of double or doubtful meaning, there is at once an appeal to the country and the country sets the government right again. This is the minority check under the English system. The majority is always faced with the fact that on tomorrow it may be the minority. In England they do things in an English way; if they wish to reform society, they make their appeal to society itself; if they wish to reform the individuals, they appeal to the individuals themselves; even in labor troubles, they have solved the problem there by an appeal to the patriotism of the men engaged in labor. The Englishmen value the priceless boon of liberty and know the means of having, at all times, stability in the government; if the government gets demagoggy or groggy, so to speak, on any subject, they turn it out and put in a more conservative one and thus each reform leads to more and more conservatism in the government itself. And the English are ruled more by precedents than we are; their judicial system is as old as Lord Coke and of Blackstone and their Magna Charter was signed by King John in the 12th Century. Their trial by jury and justice of the assize courts run back further almost than recorded history.

The insecurity arising out of the action of propagandists in the keeping up of a constant and continual agitation of public matters, affecting the liberties, rights and privileges of individuals, weakens the impulse of individuals to better their conditions and lessens the assurance of each that he will live to enjoy in peace and happiness the fruits of his exertions to better his conditions, thereby it retards real progress, development and improvement; the hard Pro-

crustean bed that your straight-laced, moral propagandists would make for all men to rest and repose on, will not suit the individual taste, dispositions and social habits of the great mass of the American people of today; to say nothing of that spirit of rebellion, open revolt and disgust that will continue to work like a cancer of distrust and discontent into the very vitals of our body politic. These are things we should take note of in passing; the very agitation of the prohibition amendment in and out of Congress and the wholesale spread of propaganda on the subject of the Anti-Saloon League of America, has resulted in the turning out of power that old conservative party, known as the Democratic party; the party of States rights, local self-government, etc.

The Republican Party have come back into power, shouting the slogans of democracy and singing the peans of liberty of the citizen, states rights and the Monroe doctrine etc. We opine that this party is merely casting its anchors to the windward in order to see which way the tide of public sentiment is drifting in the country; that they will never become a state rights party and a local self-government and that it will not follow out its old policy of imperialism and aggrandizement of the powers of the government into a strong national government, many of us would like to wait and see, before allying ourselves with the Grand Old Party, even when she comes to us bearing gifts, the meat offerings, oil and all manner of frankincense to our altars. We fear she is still the wolf in sheep's clothing and she as a party will yet have to make long strides in reform of early principles before its banners will float from the now already jaded shoulders of Southern Democrats who are sick and weary of the endless strife of faction and propaganda in their own party.

So much for the side of propaganda.

In a general sense, liberty is resistance against wrong. It is God-given—the spirit that will not down and that cannot be suppressed. It has shaken kings, emperors and

potentates from their thrones; it can reach up into Heaven and bring down the full power of God to strengthen the arms of those who fight in its cause. It was Patrick Henry who uttered the famous words "that three millions of people armed in the holy cause of liberty are invincible against any force the enemy can send against us." Under its potent power, Charles Martel, at the head of the French, halted at the Battle of Tours and Poitiers, the Saracen hordes and saved the liberties of Europe. Later, under the cry of God and the right, Godfrey of Bouillon, the Crusader, drove the infidels out of Europe and rescued the Holy Sepulchre of our Saviour. And, again it was the spirit of liberty which inspired the beaten armies of France, under the leadership of Joan of Arc, to the crowning of her king at Rheims. It was this that kept alive the drooping spirits of the followers of Robert Bruce and enabled him to at last win his famous victory at Bannockburn. It was the answer to the British King at Marston Moor that Cromwell gave; it was the reply of William Tell to the Swiss, when the Austrian despot demanded their surrender; it smoked from the guns of the American farmers as they stood at Lexington and fired the shots heard round the world; it spoke in the words of Ethan Allen at Ticonderoga, when he said to the British commandant: "I demand your surrender of this fort in the name of God and the Continental Congress;" it sustained the followers of Green, of Sumpter, and of Francis Marion in the South during the darkest hours of the Revolution; it carried the army of George Washington from the despair at Valley Forge to the brilliant victories at Brandywine, White Plains and Yorktown; it was reflected in the speech of Charles Pickney in the American Congress when he said to the French: "We have millions for defense but not one cent for tribute."

Liberty in France, Switzerland, Scotland and America has been almost synonymous with freedom. The freedom of mountain, lake and stream, the freedom of the rolling

prairie and the open plain, the freedom of the seas, lands and skies. Our flag itself is emblematic of freedom. The blue on its border reflects the deep-dyed hue of Heaven, the Baldric of its skies; its bar of white proclaims the purity of our purpose, while the stars on its folds but bespeak the individual liberty of each of her sovereign states. Such is the liberty of our own country.

Some one has said that ready made Utopia is the will-o-the-wisp which has lured men in all ages, but that we should have intelligence enough to distinguish what is possible and practicable from the glamour of magic vista. This the propagandist is unable to do; it is only when riding a pet hobby that he sees the old nag about to dump him into the abyss of absurdity, does he check her up. There are different kinds of propagandists, but they are all alike in species and belong to the same tribe or genus. You can always tell them by the very insistence with which they proclaim their peculiar mental infirmity. In the cocksureness of their plans, whatever they may be, and the infallibility of their reasonings or ravings; they are practically in a state of the man drunk on strong wine who thinks every one is drunk but himself. There are, however, some sinister ones in the lead who know they are wrong but who have not the moral courage to admit it, even when they are convinced of their error. They most frequently join in the hue and cry for what they can get out of it, either in notoriety, prominence, money or the spoils of office. There are other sincere ones who form the habit early of riding hobbies and getting on the popular side of every question. They are the most dangerous of fanatics, as they add flame and fuel to fanaticism and when they get in authority they run to extremes at all times; but they do good in that the very extremes they go to cause the reactions that end the propaganda or utopia they have helped to establish. There is another kind equally as dangerous and that is the fellow who is constitutionally and my nature a fanatic; he is never so happy as when he thinks he is forcing the other

fellow to adopt his views and take his medicine, it matters not how bitter and disagreeable it is. There is no hope to ever reason with this sort of a fellow, as he lives in a region beyond the domain of logic. This is a type of your religious or moral fanatic; he believes in his idea as a devotion, as much as the Hindoo woman when she throws her babe to feed the alligators, that it may bring her blessings from Heaven or her God. They are as unreasonable as the Mohammedan mad Mullahs when stirred by their passion for fanaticism. They will quote the Bible glibly to carry their points and misinterpret the plain lnguage of Holy Writ. They would bring down anathemas upon the heads of all those who oppose them and would pray fervidly to God to strike them dead. After calling the other fellows the Bulls of Bashan, they will proceed to outbellow the bulls themselves.

As a rule, moral propagandists and religious fanatics are not dangerous, as when they die their reforms die with them and some times they reform themselves before they die and sometimes the people get so tired of their cant, that they rise up almost unanimously and overthrow them and their dogmas, too. The propagandist does a good work, in a sense,—he calls attention by his strivings to an evil that is generally manifest and has thus been the means of correcting many an evil; after the wave of fanaticism is over, the pendulum of reaction sets in and, if arrested in time, we arrive at a modicum of truth and the world at large is thus benefited.

We have at present four reforms that are sweeping over our country and the world. They are the questions of prohibition, woman's suffrage, land and labor reforms. These four questions are now absolutely in the hands of the propagandists. They will serve to call the world's attention to some of the causes which provoked the particular propaganda to start up on each of these four subjects. Following the path beaten hard by former fanatics, they will hold that laws must be made to embody these ideals and that is

the first panacea; then will come a reign of terror to enforce these laws made by reforms; then will follow a period of reaction, when nobody will obey the laws, not even the propagandists themselves. The women who have been given the vote in many states will refuse to vote; the labor union man will rue the day when he allowed the law to measure his product which is his labor; for when the capitalists get control, they may fix a price and a regulation on it that will not suit him at all. And the land tax, if found good for the large land-owner, will be applied to the small owner as well and if he does not happen to own any land, a tax or a license privilege will be placed on his right to labor in any given field of work that will balance and equalize the land tax. And, in the end, the reformerers will be fed with the same spoon with which they so solicitiously fed others for their uplift and moral development. Then the cry will be "Sic Semper Tyrannis" and the revolution will come. An appeal to force will take place and the man on horseback will again make his appearance on the scene as he has ever done in the past and there will be an end for a considerable time of all propaganda and propagandists. Law and order will triumph and things will again become normal. The history of all nations confirms this and we have but to mention a few historical facts to illustrate the point. Liberty was never so strong in the Grecian world as when Greece was divided into a number of individual states each vying with on eanother in the intellectual development of the race, Athens counted herself safe in her ships in the time of Themistocles; Sparta counted herself always safe in the strong arms of her men; the Lacedemon, as long as he had courage, was not afraid of the loss of his liberties. The heroic age of Greece was in these times. Under the beson of individual liberty and moderation in all things, Greece reached her highest development as a race. She became the nurse of arms and mistress of arts; her literature, art, oratory and political science has not been surpassed by any nation, either of the ancients or of the

moderns; her commerce touched all the then known shores and the wealth of the world has brought to her feet. All this she lost under the propaganda of Pan Hellenism; on the system this brought about, Alexander builded his empire and accomplished by propaganda what the gold of Phillip, his father, had failed to do only a short time before. As the leader and mouthpiece of Pan Hellenism, Alexander made Greece supreme as a nation and wept because there were no more worlds to conquer. He was the first great, successful propagandist, but after him came the deluge and his once boasted empire became a wreck and the very magnificent mausoleum that he erected to commemorate his deeds became a ruin. His sarcophagus is now a curio in a museum and his remains were scattered to the winds.

What is true of Greece is true of Rome that from her seven hills ruled the world. To be a Roman was, at one time, greater than a king. For seven hundred years, the citizens of Rome maintained their liberty in pristine glory; their government was not on eof the majority, but was a government of classes—Patrician and Plebean—but so nicely balanced that friction was, in the end, always averted in time of public agitation and danger. If it came to the worst, a dictator was appointed with supreme authority to rule the state. Be it said, to the credit of the Roman citizen, that no dictator ever abused his tenure of office by trying to hold on after the time was passed that called him into being as such. Cincinnatus shines, through the mists of centuries, as the crowning glory of the system which was founded to put down propaganda and fanaticism. The corruptions of the nobility led to the revolutions on part of the plebeans and Rome fell, at last, the victim of her own power; public virtue and private morals departed from the State and Julius Caesar struck the blow which shattered the fine edifice and fell himself, a victim at the hands of a propagandist in the person of Brutus. In the name of Liberty, Brutus caused the geratest

calamity to the Roman State and removed from power the only man who had the courage and the ability to rule it successfully. But Rome had ceased to be, in fact, a republic long before the day that Caesar crossed the Rubicon; it was only a republic in name. After the banishment of the Tarquins (who were the historic tyrants of the early Roman State), the Patricians, who succeeded to power after them, became as tyrannical almost as the Tarquins; the common masses of the people arose in revolution against them and they wisely permitted the people to elect tribunes who had a positive veto on all laws that the Roman Senate might attempt to pass; there were then some liberal and generous laws passed by the Senate, with the concurrence of the tribunes, which restored the Roman State to its pristine glory; the whole nation became welded as one people and there was a long era of peaceful pursuit of happiness by the citizen and an almost unbroken record of victories for the Roman arms and Rome became mistress of the world. Great in arts, literature and poetry, great in the arts of war, the science of law, of government and great in the liberties of her citizens. It was not a government by majorities at all, but a government between two opposing classes which in time ceased to class, being imbued with the common spirit of liberty and of patriotism. The negative power of the tribune was at all times ready to check the positive power of the Senate. The people exalted to office the greatest and noblest of her citizens and the Senate appointed the greatest and ablest men to command the armies and to discharge the duties of consul and proconsul and of other governmental agencies., So long as this spirit of patriotism and liberty animated the hearts and minds of the people, Rome continued to grow, prosper and develop as a great nation. But through propaganda, reforms and factional fights, this spirit finally faded away. Caesar, during the years of his enforced absence in the command of the army in Gaul, was removed from all taint of faction, he saw that long tired of

the endless war of faction and strife at home between rival politicians and military leaders, Rome would hail him as a deliverer and as the master man of the hour to save Rome from herself. The war of propaganda and faction had become intolerable to the Romans as much so as in ancient times the tyranny of the Tarquins had been. Thus after centuries of peace, liberty and political freedom, the State itself fell a victim to internal disorder and the rule of faction; and it was only the establishment of the empire under Caesar that it was possible for the Roman State to survive and continue; this it did for many centuries after the death of Julius Caesar who fell a victim to the daggers of the assassins, shouting liberty as the cause for his downfall. The death of Caesar was followed by civil war and an oligarchy or triumvirate was formed which laid firmly the foundation of the empire, the crowning glory of which was a Caesar—Caesar Augustus. Thus a government which existed for centuries with a minority rule, as the chief corner stone of the system, came to an end; it was the constant and never-ending appeal by the leaders to the majority and a constant change of that majority, first to one and then to anotoher popular heroes, that brought the State, at last, to an absolute depotism.

Those struggling nations of Europe, which are now clamoring for self-determination and the right to be free, should all take a lesson from the history of the great Roman Republic and beware of leaving their liberties in the hands of an unbridled and unchecked majority. They should follow the chart marked out by America in its great Constitution of a balance of powers and be sure to create a safe negative in the minority party to hold down the majority for the time being to what is sane and reasonable and right, in accordance with constitutional provisions and those rights, liberties and privileges which they wish reserved to the individual citizen, should be so embedded in the constitution as to be incapable of amendment or charge by subsequent fanatics or moral reformers.

While the voice of the people is called in praise the voice of God, in many instances it sounds more like that of hell and of Satan. Let them study well the present debacle in Russia, of the great republic founded by Karensky, and see to what extreme the doctrine of the majority, when given power and reign, will go to. All history shows, and our own times prove, that a majority will not do, of itself, to trust the power of government to in a nation where liberty is the motto. The people when given the ballot are by this means expected to forever protect their reserved rights, liberties and privileges, but in this late day under the guise of amendment, these reserved rights and liberties have themselvs been invaded and if the evil is not stopped and stopped soon, our government will begin to fall into decay and we will at last drift into a system of pure democracy, where the majority alone is the sole test of government; the cry of the agitator, reformer and doctrinaire will ring through the land, appealing to all the passions of class hatred, envy, jealousy and lust for office and power to control at each and every election. It will be impossible for such a government to ever reach a point of compromise, when once the war of factions is started; as Mr. Calhoun, in his great work on government has well said: "It will then be the object of the opposing monirity to expel the majority from power; and of the majority to maintain their hold upon it. It will be on both sides a struggle for the whole, a struggle which shall determine which shall be the governing and the subject party; and in character, object and result, not unlike that between competitors for the sceptre in absolute monarchies. Its regular course has been shown in excessive violence,—an appeal to force—followed by revolution and terminating at last in the elevation to supreme power of the general of the successful party."

Such was the history of Rome and Greece, France and England, and other continental nations of Europe, and America bids fair to have the same experience, if the gov-

ernment is not placed back on its former constitutional basis in some matters that are liable to come up in the near future. While it is true, under the doctrine of sovereignty in the people as the basis of our popular sovereignty, the people themselves, under the sovereign rights reserved to themselves, and the States, can change, modify and amend the Constitution in any way they see fit, but so well has the machinery been constructed by the framers worked, that the people themselves have offered only a few amendments. The old parties, heretofore, the Federal and Republican, Democrat and Whig, and Democrat, and Republican have warred and struggled along the line of construction and not of amendment. With the adoption of the three last amendments, to elect the Senators by the people, the income tax and the prohibition amendments, a new idea has taken possession of our people and of parties. Where it will end no one can tell. If it continues to spread, the only alternative is for the States to call a general convention to revise the Constitution and offer amendments, so as for all time to secure more stability in our form of government and the protection of the individual liberties of the citizen from the evil of propaganda and the mania of fanatics. Our early statesmen were so imbued themselves with the principles of liberty, religious freedom and of the rights of conscience, they never dreamed that the States themselves would set in motion the means to destroy them.

REPORT OF
COMMITTEE OF LEGAL EDUCATION AND ADMISSION TO THE BAR.

H. F. REESE, Chairman
OF SELMA

Mr. President and Members of the Bar Association of Alabama:

Your Committee of Legal Education and Admission to the Bar, respectfully make the following report:

1. That until the University shall have required a three years law course for graduation from its law school, the legal learning required by law of applicants for admission to the Bar is sufficient.

2. That an applicant should have academic learning equivalent to that required of graduates from our county high schools; as a rule however, we think it will be found, that under the present law a student whose mind has not undergone the training above specified, is rarely able to qualify himself in the required legal learning.

REPORT OF
COMMITTEE ON LEGISLATION
F. S. BALL, Chairman.
OF MONTGOMERY

Montgomery, Ala., July 3, 1919.

To the Alabama State Bar Association:

The chairman of the Committee on Legislation has made an effort to have a meeting of the committee and failing therein has requested each member to make suggestions of matters to be incorporated in this report. Response was received from only one member of the committee who stated that his duties were so numerous that he could not give the affairs of the committee any consideration.

The chairman, therefore, makes this report on his own responsibility and being unable to attend the meeting of the Association on account of unexpected litigation pressed upon him in the Federal Court sends this report to the Secretary to be read by him.

The Montgomery Bar Association has had under consideration a number of suggestions of changes in the real estate laws of the State of Alabama made by the Alabama Title Men's Association. These suggestions have been printed by that Association and several copies are now placed in the hands of the Secretary of this Association. One copy is attached to this report and the chairman of this committee recommends that its suggestions be thoroughly considered and believes that most of them, if not all, should be endorsed by the Association as worthy to be enacted into law. When this Association shall have acted upon these suggestions, this committee will take pleasure in formulating bills to be introduced into the Legislature to carry into effect the recommendations of this Association.

There has come to this committee a letter from the Secretary of the American Judicature Society, together with

bulletin number fourteen containing nearly two hundred pages or proposed rules of civil procedure, being the result of several years' work by the members of the Board of Directors of that Society. It is suggested that this Association consider and take action upon the matters contained in said bulletin but it has come into our hands too late even to read it, much less to consider the voluminous provisions contained therein, many of which are radically different from the procedure in this state. A hasty reading impresses the chairman of this committee that there is much of merit in the bulletin and that it might be referred for further consideration by some appropriate committee or brought to the attention of the recess committee in charge of formulating legislation for the present Legislature. The bulletin accompanies this report but is too voluminous to be made part of it and printed in the minutes of this Association.

As the Committee has received no suggestions and has not found in the minutes of the last meeting suggestions appealing to it as the basis for new laws, it has refrained from preparing any bills to present to the Legislature. It is informed that many sweeping changes are under consideration by the recess committee of the Legislature, but it has not been able to ascertain what bills will be recommended for adoption.

REPORT OF
COMMITTEE ON LEGISLATIVE ENACTMENT
SAM WILL JOHN, Chairman
OF SELMA

To Hon. J. Manly Foster, President Alabama State Bar Association.

The Committee on "Legislative Enactment" reports that the Legislature met January 14th and worked 20 legislative days and recessed to July 8th, 1919.

The Legislature passed 182 joint Resolutions and Acts, which cover 184 8 vo. pages.

The first Act fixes the salary of the Governor at $7,500.00 a year, being the third time that this salary has been changed in eight years.

The most important, far reaching legislative Act, was the joint Resolution ratifying the 18th amendment to the Federal Constitution, which was ratified by 45 States and in shorter time than any amendment was ever ratified.

Following shortly after the ratification of the 18th amendment, was the Act,—To further suppress the evils of intemperance; to restrict the receipt, possession and delivery of spirituous, vinous, malted, fermented, or other intoxicating, or prohibited liquors, etc.

This Act by some is considered to be the most drastic and "cover all" Statutes that have ever been enacted, on this subject.

The Committees of U. S. Congress are now intensely engaged in framing Statutes providing for the rigid enfrcement of this amendment.

Very early in the session the Act, To create the Alabama Memorial Commission and providing for the erection of a suitable memorial "to commemorate the part of Alabama and Alabamians in the World War," was passed.

A most laudable undertaking, and the first State action on this subject, and I rejoice that Alabama so promptly

acted, for Alabamians were second to no soldiers on the battlefields of Europe and when the opportunity came, they led.

The Act raising a Commission to study the Public School system of Alabama, was a long step up and forward in the interest of all the people, but as their report will be considered and acted on, and as the full report has not been published we cannot discuss its provision, but earnestly hope much good will come out of this action, for the education of Alabamians.

State-wide "Tick Eradication" has come at last, by the Act approved February 7th, 1919, which fortunately has in its provisions providing easy and quick remedies to enforce it.

The establishment of a Budget Commission promises a much needed reform in the administration of the State's finances, and if properly, cordially supported by the Legislature, will bring great good to the State and some relief to the Governor.

The Act "To create a State Board of Control and Economy" while it has many good provisions in it, yet gives powers to that Board never before granted to any Board or State officer and which will require greater wisdom and judgment in its execution, than is ordinarily found in men, to avoid doing great harm.

If the Governor will vigorously enforce the Act authorizing him to remove officers and employees who are appointed by the Governor, we will soon hear no more about such officials, playing, idling and worse, when they should be at work, serving the people.

The Act to declare and abate nuisances provides very fully the process and remedies for abating nuisances and while that power has always been inherent in Courts of Equity, it is well that these be put in Statutory form for easy reference by the Bench and Bar.

The Act to provide for elections to authorize Counties to levy a tax of thirty cents on every one hundred dollars

of taxable property was timely and several counties have acted under it, so that now there are only three or four counties not levying this small sum to aid in educating their own children.

The Act to provide for absent qualified electors to vote in primary elections, was prompted by the recent absence of so many young men, "fighting the battle of freedom—Democracy" in Europe, and if it is held invalid, as being in conflict with provisions of the Constitution which requires the personal presence of the voter at the polls, this should cause the Constitution to be amended so that this can be done.

The creation of the Alabama Centennial Commission to properly celebrate the 100th Anniversary of Alabama's admission into the Union of States, is timely and it is to be hoped that this celebration will be worthy of great history—life of this State, for if any other State has given more of her sons to die for free-Democratic Government, than Alabama, I have not heard it.

The Act to provide for the acceptance of the benefit of the Act of Congress, to promote vocational education, is another step upward, forward in the great cause of education, and will bring good fruits in a glorious cause.

The Act authorizing the Governor to make rules for the reorganization of the National Guard in conformity to the Acts of Congress, was necessary, if we want to have any military organization which the Governor can command to enforce the law, and not place him in the humiliating position of knowing that he has no force to obey him when he undertakes to enforce the law.

It may be necessary to have sufficient military guard around the State Capitol, to prevent the Governor from being unlawfully and forcibly ejected from the Gvoernor's office, as was attempted in the history of our State.

The Act, to regulate the practice of public accountancy will doubtless have the effect of making known to the

public, competent accountants, and relieve them from imposition of incompetents.

It is to be regretted that the Act of February 19th, 1919, relating to dependant, neglected or delinquent children is confined to counties having 150,000 population, for every county in Alabama should have such a law in operation.

If we do not care for such children, we will, certainly have many of them grow to be criminals.

The Act to authorize the Court, to impose indeterminate sentences, etc., has already been construed, favorably, by the Supreme Court and several appeals have been taken which will evoke further judicial construction.

This is a very meritorious law, and if executed in the spirit in which it was enacted, the results will be highly beneficial to society, but before we can receive the full benefit of this law, we will have to educate those charged with the duty of enforcing it, so as to abolish the idea of vindictive punishment.

The absence of the National Guard caused the enactment of the Statute of February 19th, 1919, authorizing the Governor to call to his aid the police of any city or town, who shall under his direction enforce the law, and preserve the peace. This is a wise law.

The Act, to provide for the control of venereal diseases by an ante-nuptial physical examination is a step in the right direction, but falls short of its object in that, it requires the examination of men only.

It is true that men carry these diseases from a woman to a woman, and unless the woman is required to be free of disease, only a half check against propagating them is provided.

Doubtless it was known, that but very few unmarried white women have these diseases, and the writer of this law hesitated to require good, pure women to be examined, overlooking the fact that a diseased negro woman is

just as dangerous to society, just as unfit for marriage as though she were white.

The Legislature of 1915, very unwisely repealed the sections of Code providing for the establishment of private roads and this very necessary law was enacted twice—Act February 17th and February 18th, 1919.

PAPER BY

A. C. LEE

OF MONROEVILLE

SOME OBSERVATIONS ON MODERN TENDENCIES

It is apparent to all that, to a greater or less degree, the people of the world are in the midst of a period of unrest, and that in many quarters we are undergoing a certain degree of evolution, and in some sections revolution, evidencing a craving for something, but what this something is we are not at all sure. We are taught that the pendulum of public opinion has ever been inclined to swing to and fro, often going to extremes in either direction; but just now it would appear that the swing is toward radicalism, and the sweep has gone to an unusual length, with the momentum still undiminished. Under these circumstances it stands us well in hand to look about us, take an inventory of the situation, and the possibilities, and in the exercise of our more conservative judgments to determine our duty in the premises.

It will be my purpose to discuss very briefly some phases of the situation, which have recently impressed themselves upon my mind, and I might venture to add some suggestion that occurs to me as my conception of the duties of the legal profession. I would not be classed as a pessimist nor as a reactionary, as that word has heretofore been popularly regarded; but it is only the part of wisdom to endeavor to correctly survey our surroundings to the end that we may best accomplish the greatest service to ourselves and to the world. The greatest error of all is to permit ourselves to be blinded to the realities of life that confront us.

Very recently this country has been called upon to witness in our National Legislative halls, and more especially in the Senate of the United States, what appears to be a

willingness on the part of the leading figures in those halls to subordinate for the time being the national welfare to petty partisan political advantage.

We know that there is ever present a desire for partisan supremacy, and that this desire is manifested from time to time in different manner; but one can not escape the impression that of late this conflict has been allowed to reach such proportions that it overshadows the genuine efforts at constructive procedure. It occurs to me that this is a more or less definite departure from the statesman-like action we have heretofore had at the hands of our really big men, and from what the country has a right to expect from our present representatives. I refer especially to the recent attacks upon the President of the United States, and upon the present administration generally. We should all welcome constructive criticism of our public servants; but a reference to the circumstances surrounding the recent attacks upon the present national administration, and the very language used at times, can not but impress us with the idea that the more severe critics are moved by purposes other than the predominating desire to advance the interest of humanity generally, and our own country in particular.

One of the most significant evidences in our own United States of the changing views of our people is that inclination so generally prevailing to disregard the fundamental principles of government upon which our great United States was builded, which said principles were expounded by Jefferson in our immortal Declaration of Independence, and found specific form in our Federal Constitution. That constitution as originally prepared and adopted contemplates that our great central government should exercise only those functions which are necessary to the preservation and maintenance of our national existence, with only such authority as may be incident thereto. It is contemplated that the people, acting through their various state governments, should be free to handle and dispose of other

questions necessary to the maintenance of our relations and duties as members of society. And as time passes I can not bring myself to see or understand that another governmental principle is better calculated to foster our ideas of liberty and social justice than those principles of local or state rule which our original constitution established and recognized.

I repeat, however, that of late there is a very strong inclination prevailing in the minds of the people to forget or disregard these fundamental governmental principles, and to substitute therefor a strong central government with far reaching regulatory powers of supervision. This inclination appears to be gaining momentum as it travels, until it is reaching a rather alarming extent. Ample evidence of this inclination may be found in the proposal, and the willing ratification, of recent amendments to our Federal Constitution, and the agitation of still other material amendments that is constantly being heard from numerous sources. The late amendments to our Federal Constitution apparently have been considered very largely from the standpoint of expediency, to the exclusion of the governmental principle involved. In other words the prevailing views were formed almost exclusively with reference to our ideas locally on the subject matter and without giving due consideration to the principles of government involved. It manifests to my mind a decided tendency to substitute expediency for governmental principle.

I am not prepared to regard this inclination so largely as a positive desire on the part of the people to affect a fundamental change in our governmental structure, but rather to a diminishing sense of the importance of maintaining our fundamental principles, and working out progressive measures with these principles steadily in mind.

In the equal suffrage movement, which has recently been gaining ground so rapidly, we observe an inclination to get away from the original purpose of our constitution to permit the people, acting through their state governments,

to control their own suffrage, and the manner in which the popular will shall be expressed. No one questions the right of the states, without the aid of a Federal amendment, to extend the suffrage to the women when the people of that state see fit to do so; therefore, the only material purpose to be accomplished by the Federal Amendment is to force equal suffrage upon those States which may not yet desire it.

This is fundamentally wrong, for the extension of suffrage to women can not be accounted necessary to the maintenance of our national existence. It is argued by some of the advocates of equal suffrage that in the adoption of this amendment we will be righting a great national wrong; but even to those who so consider it, we would say that ample machinery for righting this wrong is found in the legislative departments of the various state governments, and none can deny that the extension of the ballot through the machinery of our state governments does right the alleged wrong as fully and completely as similar action through our national organization.

I will not impose upon this Association my individual views on Woman Suffrage, but rather rest the question on a discussion of its necessity through Federal enactment. I am constrained, however, to refer to the fact that with the arrival of the practical operation of equal suffrage, there will undoubtedly be a partial abandonment on the part of the men of that finer sense of chivalry toward the women that has long been the pride of our Southern manhood. I am convinced that the right of suffrage has not heretofore been denied the women on the ground of a belief on the part of the men that the women were incapable of exercising such privileges, but rather upon the ground that there has not been any thing approaching a universal desire among the great body of our womanhood for such privilege, nor has any necessity for the extension of such privilege been shown. I dare say that the most ardent advocates will hardly contend that with the right

of ballot the relative property rights of women under the laws will be improved.

This idea of substituting the new order for the old, has even found its way into the judiciary, as must appear from a careful investigation of the decisions handed down during the past few years by our higher state courts. In some instances one can not escape the impression that the courts, in reaching their conclusions and in setting forth the reasoning upon which such conclusions are based, are inclined to emphasize the personal judgment of the Court as to the justice of the respective parties, at the expense of the application of fundamental legal principles. We know that in such instances the human inclination in the court is asserting itself, and that a high degree of moral courage, as well as a marked familiarity with the fundamental principles that should govern, is necessary if the conclusions reached are to conform to correct legal principles. I am also aware that at times questions are presented to our courts, which appear to indicate a failure on the part of the legislative department of our government to provide for the administration of complete justice, and some times the situation presented actually offers some temptation to our judicial department to correct, by interpretation, the apparent failure or omission of legislative action. To do so, however, would constitute a plain violation of our constitutions, both State and Federal, and there is no proper procedure open to our judiciary except to interpret according to the legislative intent, leaving errors of omission or of commission to be corrected by the law making department.

I am not unmindful of the fact that judges of our Courts are men possessed of all the inclinations of human nature, but it occurs to me that this is the time of all times in the history of the world when there should be the greatest vigilance exercised by our courts to the end that the identity of the several departments of our government should be scrupulously recognized, and that differences between

members of society should be adjusted according to the fundamental rules of justice as expressed in the recognized principles upon which our jurisprudence is based. I dare say that in some isolated instances the application of these principles may work some injustice to one of the parties but that is inevitable where the rules are constructed, or applied, by man. But on the whole the safe course to be pursued is that of applying these fundamental principles to the facts in all cases; for it is wholly unsafe to substitute the judgment of man for the fundamental principles of law.

It occurs to me that the legal profession has an opportunity, in the present age, to be of real service along the conservative lines to which I have referred. I do not claim for the profession a greater interest in the course of current affairs, a higher degree of intelligence, nor a broader patriotism than other people, but the training the legal mind receives in the course of practice probably enables the lawyer, as a class, to form a better estimate of the value of fundamentals, than those engaged in other pursuits. The very nature of the lawyer's work teaches him to emphasize the importance of fundamentals, and to apply those principles in the affairs of life. Permit me to repeat that the time is especially opportune for the lawyers, acting in their capacity as citizens, to be of great service to our country and to humanity, by consistently lending their efforts toward conservatism in the common councils of society.

ANNUAL ADDRESS

EMMET O'NEAL

OF BIRMINGHAM, ALA.

THE SUSAN B. ANTHONY AMENDMENT. EFFECT OF RATIFICATION ON THE RIGHTS OF THE STATES TO REGULATE AND CONTROL SUFFRAGE AND ELECTIONS.

The submission of the proposed women's suffrage amendment to the Federal Constitution has already provoked a storm of controversy and discussion as to the effect its ratification will have on the rights of the States to regulate and control suffrage and elections.

The advocates of the amendment contend that if ratified its only effect will be a prohibition of the States from abridging or denying the rights of a citizen of the United States to vote on account of sex, and that it will not take away from the State governments the power to fix the qualifications of voters, which has belonged to them from the beginning. They therefore insist that the fear that its operation will give to the negro women of the South the right to vote, regardless of qualifications, is wholly unfounded, but that on the contrary negro women will be barred from the electorate until they are able to meet the same qualifications now required by the Alabama and other Southern States Constitutions of negro male voters.

On the other hand, the opponents of the amendment earnestly contend that if it is ratified, it will vest in the Congress of the United States power to overthrow the suffrage restrictions now found in the State Constitutions of the South, or authorize reduction of our representation in Congress an dthe Electoral College under the provisions of the 14th Amendment. It is even claimed by some of the opponents of the Amendment that it would have the effect of transferring to the Federal Government the complete power to control the suffrage and regulate the elections in the States.

The limits of this discussion will not permit a proper consideration of whether the proposed amendment is wise or unwise,—whether it strips the South of political power, or whether it strikes a serious blow at self-government. Moreover, its moral or social effects are not pertinent to this discussion. We shall only undertake, therefore, to examine and ascertain from the provisions of the Federal Constitution and their construction by the Supreme Court of the United States the effect of the proposed amendment will have on the power of the States to regulate and control the qualifications of voters and elections as provided by their separate Constitutions, or whether the enforcement of the proposed amendment will transfer to the Federal Government control of elections.

In order to reach a correct conclusion on the questions involved, it will be necessary first to ascertain the powers of the States as to suffrage at the time of the formation of the Constitution, and to determine what changes, if any, were made by the Constitution and its amendments.

THE POWER OF THE STATES PRIOR TO THE 14TH AND 15TH AMENDMENTS AS TO SUFFRAGE.

The exclusive right of the several States to fix the qualification of their voters was older than the Constitution. Even in Colonial times, the right to vote had been regulated by their several Assemblies, and not by the British Parliament, and this right was not surrendered when the Federal Union was formed. The unabridged and exclusive power then, of the States at the formation of the Government to regulate and control the suffrage of its own citizens was never delegated to the Federal Government, but was retained as one of their most important reserved rights. The only question, therefore, is whether by the adoption of the 14th and 15th Amendments, that essential attributes of sovereignty was either limited or surrendered. That question has been very clearly and

emphatically answered by the Supreme Court of the United States in repeated decisfions, declaring that "The right to vote in the States comes from the States, but the right of exemption from the prohibited discrimination comes from the United States." "The first has not been granted or secured by the Constitution of the United States, but the last has been."

While the Supreme Court has repeatedly declared that neither the 14th or 15th Amendments conferred the right of suffrage upon any one, yet, as stated by Chief Justice White, in Guin vs. U. S., 238 U. S., page 362, "While in the true sense, therefore, the 15th Amendment gives no right of suffrage, it was long ago recognized that in operation its prohibition might measurably have that effect."

It will be observed that the 15th Amendment does not in express terms confer on the negro the right to vote. It only commands the tSates not to deny or abridge the right to vote on account of race, color, or previous condition of servitude. By the inherent power of the amendment, which was self-operative, it struck out the discriminating word "white" from every State Constitution, and the word "white" disappearing, all male citizens, without discrimination on account of race, came under the grant of suffrage made by the States.

THE PURPOSE OF THE TWO AMENDMENTS.

As repeatedly declared by the Supreme Court of the United States, and as shown by the debates in Congress during the period that its adoption was being considered, the main purpose of the 14th Amendment was to establish the citizenship of free negroes, which had been denied by the Dred Scott decision, and to make all blacks born or naturalized in the United States citizens of the United States, and to secure to them all of the civil rights that the superior race enjoyed. It did not confer the right to vote, but, on the contrary, recognized the right of the States to deny the suffrage to the negro race on account

of their race, or color, or previous condition of servitude. It provided, however, that Congress would penalize any State so denying to the newly emancipated race, the right to vote, by reducing its representation.

It is true that the 14th Amendment provides that no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, but the Supreme Court of the United States years ago declared that the right of suffrage is not one of the necessary privileges of a citizen of the United States. (See Minor vs. Hapersett; 21 Wallace, 152.)

While as has been shown the 14th Amendment recognized the power of the State to deny to the negro the right to vote on account of his race, the 15th Amendment nullified that power by providing "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, or color, or previous condition of servitude." The adoption then of the 15th Amendment, withdrew from the States the right which the 14th Amendment had recognized, to deny the right to vote to the negro race on account of race, or color, or previous condition of servitude. On the contrary, it prohibited in unequivocal terms any State, or the United States, from abridging or denying to any citizen of the United States, the right to vote on account of race, or color, and by its inherent power made null and void any State Constitution or law which contravened its command. After its passage no State any longer had the option to deny the right to the negro to vote on account of race and accept the penalty which the 14th Amendment provided. The power of Congress to reduce representation as a punishment to the State that denied suffrage to the negro could no longer be exercised, for the simple reason that no State could deny the right to vote to the negro on account of his race,—such denial, if attempted, being nullified by the express command of the 15th Amendment. If, therefore, a State passed a law

which denied or abridged the right of the negro to vote on account of race, such law world be void by the operation of the 15th Amendment, and hence Congress could not punish a State by reducing its representation for passing a void law.

In the case of Giles vs. Teasley, 103 U. S., 147, the Supreme Court held that if the provisions of the State Constitution of Alabama were repugnant to the 15th Amendment, they were void, and that the Board of Registrars appointed thereunder had no existence and no power to act, and would not be liable for refusal to register a voter, and could not be compelled by a writ of mandamus to do so. So it would be difficult to understand how Congress could reduce the representation of a State which had merely undertaken to adopt a Constitution or laws discriminating against the negro on account of race which by the inherent power of the 15th Amendment were null and void.

THE 15TH AMENDMENT.

The general impression prevails among the people that the 15th Amendment conferred on the negro the right to vote, but, as we have seen, Chief Justice White in the most recent adjudication on the subject, declared that "Beyond doubt the Amendment does not take away from the State governments in a general sense, the power over suffrage, which has belonged to them from the beginning, and without the possession of which power the whole fabric upon which the division of State and National authority under the Constitution and the organism of both governments rests, would be without support, and both the authority of the Nation and the State would fall to the ground. In fact, the very command of the Amendment recognized the possession of the general power by the State, since the Amendment seeks to regulate its exercise as to the particular subject with which it deals."

(Guinn vs. U. S., supra.) As Chief Justice White points out with such unanswerable logic, we need not look beyond the Amendment itself to prove that in a general sense it does not take away from the State governments the power over suffrage which has belonged to them from the beginning. The States could not deny a right which was not within their power to grant. As Chief Justice White says, the very command of the amendment is itself a recognition of the possession of the power by the State to withhold or grant the suffrage as they might elect. As he further declares, "But it is equally beyond the possibility of question, that the amendment in express terms restricts the power of the United States and the States to abridge or deny the right of the citizen of he United States to vote on account of race, color or previous condition of servitude." The restriction, he says, is coincident with the power, and prevents its exercise in disregard of the command of the amendment. In other words, the amendment says, we admit you have the power, but hereafter we prohibit you from exercising it in disregard of our command.

And, continuing his discussion of the subject, Chief Justice White, speaking for the Court, says: "But while this is true, that the restriction is coincident with the power, it is true also that the amendment does not change, modify or deprive the States of their full power as to suffrage, except, of course, as to the subject with which the amendment deals, and to the extent that obedience to its command is necessary. Thus the authority over the suffrage which the States possess, and the limitations which the amendment imposes, are co-ordinate, and one may not destroy the other without bringing about the destruction of both." (Guin vs. U. S., supra.) (Pope vs. Williams, 193 U. S., 625.) So the doctrine which the Supreme Court has repeatedly declared in previous decisions that the 15th Amendment does not confer the right of suffrage upon any one, but only prevents the States, or the United States,

however, giving preference in this particular to one citizen of the United States over another, on account of race, color, or previous condition of servitude, is reaffirmed by this, the fullest and most authoritative recent adjudication on the subject. Hence it is now settled beyond the possibility of question, that the amendment in its general sense does not take away from the State Governments power over suffrage, and the full and complete power which the States possess over the subject is only limited to the extent that the right to vote shall not be abridged or denied on account of race, color, or previous condition of servitude.

THE SUSAN B. ANTHONY AMENDMENT.

The proposed amendment provides as follows: "Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex. Section 2. Congress shall have power to enforce this article by appropriate legislation." It will thus be seen that the amendment uses the identical language found in the 15th Amendment, substituting merely for the words "On account of race, or color, or previous condition of servitude," the words "On account of sex." Add the words "on account of sex" after the last words of the 15th Amendment, and the two amendments could be considered as one.

Does the Anthony amendment, if ratified, give to women the right of suffrage? The same question was asked as to the 15th Amendment; and the same answer of the Supreme Court that it did not in its true sense give to the negroes the right of suffrage, would be the answer now, as to the Anthony amendment. It must be remembered that at the time of the passage of the 15th Amendment most of the State Constitutions confined the right to vote to male white citizens. The 15th Amendment did not, therefore, in express terms confer on the negro the right

to vote. It simply commands the States, or the United States, not to deny to the negro the right to vote on account of race, or color, just as the amendment under consideration commands the States or the United States not to deny the right to vote on account of sex. Neither of the two amendments in express words confer the right to vote, because the right to vote comes from the States and not the United States; but, as declared by the Supreme Court of the United States, its prohibition of its denial or abridgment on account of race or sex might measurably have that effect. As Chief Justice White in Guin vs. United States, supra, declared, "While in the true sense, therefore, the amendment gives no right of surfrage, it was long ago recognized that in operation its prohibition might measurably have that effect; that is to say, that as the command of the amendment was self-executing, and reached without legislative action the conditions of discrimination against which it was aimed, the result might arise that as a consequence of the striking down of a discriminating clause, a right of suffrage would be enjoyed by reason of the generic character of the provision which would remain after the discriminating word was stricken out."

Quoting Ex Parte Yarbrough, 110 United States, 630; Neal vs. Delaware, 103 U. S., 370, "A familiar illustration of this doctrine resulted from the effect of the adoption of the amendment upon the State Constitutions in which at the time of the adoption of the amendment the right of suffrage was conferred on all male white citizens, since by the inherent power of the amendment the word 'white' disappearing, and therefore all male citizens without discrimination on account of race, color or previous condition of servitude, came under the generic grant of suffrage made by the States."

Applying the same reasoning to the proposed amendment, it could be said that at the time of its submission or adoption many of the State Constitutions conferred the

right of suffrage only on male citizens, but by its inherent power, if adopted, it will strike from every State Constitution the discriminating word "male," and, therefore, all citizens of the United States will come under the generic grant of suffrage made by the States. As women are citizens of the United States, and as the amendment, when adopted, will by its inherent power strike out the discriminating word "male" from every State Constitution, and without further legislation by the States or by the Congress, every State Constitution would grant the suffrage to all citizens of the United States. The qualifications for suffrage made by the several States would remain unaltered and unaffected to the same extent as if the 14th and 15th and 19th Amendments had not been adopted, provided there was no abridgement or denial of the suffrage on account of race, or color, or previous condition of servitude, or on account of sex. It follows, therefore, that immediately upon the adoption of the 19th Amendment the word "male" being stricken out of every State Constitution, ex proprio vigore, of the amendment, women would be entitled to vote subject to all of the qualifications provided by the Constitution and laws of the several States.

THE POWER OF CONGRESS TO ENFORCE THE AMENDMENT

The same grant of power as to the enforcement of the amendment is given to Congress as provided in the 15th Amendment. That power does not extend to fixing the qualifications of voters,—a power alone vested in the States and never delegated to the Federal Government. The whole control over suffrage, and the power to regulate its exercise would be still left with and retained by the several States, with the restriction that they must not deny or abridge it on account of race, or color, or previous conudition of servitude, or sex. (See Pope vs. Williams, 193 U. S., 629). To use the language of Chief Justice

White in Guin vs. U. S., supra, in reference to the 15th Amendment, which unquestionably also would apply to the 19th Amendment, if adopted. "The amendment would not change, modify or deprive the States of their full power as to suffrage except, of course, as to the subject with which the amendment deals, and to the extent that obedience to its commands is necessary."

POLL TAX.

Assuming then that if the 19th Amendment is ratified that it does ex proprio vigore annul the discriminating word male now found in the Alabama and other State constitutions, and substantially confers on women the right to vote subject to the same qualifiications that apply to male citizens, an interesting question arises as to whether women must pay poll taxes before they can register and vote.

Section 178 of the State Constitution provides that in order to entitle a person to vote at any election by the people among other things that "he shall have paid on or before the 1st day of February next preceding the date of the election at which he offers to vote, all poll taxes due by him for the year 1901 and each subsequent year."

Section 2074 of the Code provides that a poll tax to be applied excusively in aid of the public schools shall be collected from every male inhabitant in this State over the age of twenty-one and under the age of forty-five years.

Now, as far as male citizens are concerned, the payment of the poll tax by those within the prescribed ages for 1901, and for every subsequent year, on or before the 1st of February preceding an election, is a prerequisite for the right to vote. Does this section apply to women in event the 19th Amendment is adopted? By its express provisions the liability for payment of a poll tax applies only to male inhabitants unless the 19th Amendment, when adopted, would have the effect of removing from the statute the

word "male." This unquestionably would be its effect as far as the provisions of the Constitution of the State are concerned, but it would not appear to modify or change or amend the statute. This being true, in the event of the adoption of the amendment, women both black and white could vote, without the payment of the poll tax. This would result in a discrimination to which the male citizens of the State would strenuously object, and would overthrow one of the most important restrictions on voting which the framers of the Constitution intended to secure. The payment of the poll tax so far in advance of the election and its cumulative provisions has resulted in restricting the exercise of the elective franchise by the negro citizen more than any other provision of the State Constitution. While the requirement does not discriminate against the negro on account of race, yet its practical operation does close to him the voting booth more effectually than any other provision of the State Constitution.

OCCUPATION A PREREQUISITE TO THE RIGHT TO VOTE.

Another provision of the Alabama Constitution found in Section 181, which establishes the permanent plan for the qualification for suffrage, provides that a citizen seeking to vote "must have worked or been regularly engaged in some lawful employment, business or occupation, trade or calling, for the greater part of the twelve months next preceding the time they offer to register." It is assumed that women who have been engaged in housekeeping for the greater part of twelve months preceding their offer to register, in the event the Anthony Amendment is adopted, would be qualified under this provision, as housekeeping would clearly seem to be an occupation or employment. But it would appear that those women who were not engaged in housekeeping, or some other business or employment, would be denied the right to register or vote

in Alabama. Certainly those women whose chief or only occupation is chasing the elusive god of pleasure, in all the forms of amusement and recreation of modern society, the society belles or leader of fashion, whose hands were not hardened by toil, would find the doors of suffrage closed, only to be opened when they abandon their lives of leisure or idleness and secure some occupation or employment.

THE POWER OF CONGRESS TO REGULATE ELECTIONS.

This power is vested in Congress by the provisions of Article 1, Section 4 of the Constitution, and which is in the following language: "The times, places, and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators." It is evident, therefore, that unless Congress interferes, the regulations of the election may be made wholly by the State, but by the very terms of this section "Congress may at any time by law make oralter such regulations."

In construing this section of the Constitution, the Supreme Court of the United States has established the following propositions: 1st. There is no declaration by the Constitution that the regulation of elections shall be made either wholly by the State legislatures or wholly by Congress, but until Congress interferes the State regulations control. 2nd. If Congress does interfere it may either make the regulations, or it may alter them. If it merely alters or modifies the regulations, and there is any repugnance between the State regulations and those altered by Congress, the alteration smade by Congress control,—its power over the subject being paramount. 3rd. And this power to make or alter regulations of the elections can

be exercised as any when Congress sees fit to exercise it. If there is any conflict with State regulations and regulations made by Congress, those made by Congress supersede them. 4th. Congress can, in its discretion, alter or modify, add to or subtract from, the regulations of the elections made by the States. The regulations made by Congress would take the place of those made by the States, so far only as they may be contrary, or repugnant. If consistent with the State regulations, both would stand. There could be no clashing of jurisdiction, because the regulations made by Congress would be paramount, and if they conflict with State regulations, to the extent of the conflict, they supercede the State regulaions, which cease to be operative. 5th. The regulations of Congress being Constitutionally paramount, the duties imposed thereby upon the officers of the United States, so far as they have respect to the same matters, must necessarily be paramount, and such Federal officers and agents have the requisite authority to act without obstruction or interference from the officers of the State. Thus, although Congress has no power to prescribe the qualifications of electors, the right to vote for members of Congress and for United States Senators, is fundamentally based upon the Constitution, and was not intended to be left within the exclusive control of the States. It is therefore evident that Congress has paramount and plenary power to make laws for the regulation of elections in the states for Senators and Representatives in Congress, that it can make laws to prevent fraud and violence at elections, and provide for the presence of officers and agents to carry its regulations into effect. It may, if it sees fit, assume the entire control and regulation of the election of Representatives and Senators. It could appoint places for holding the polls, the times of voting, and the officers for holding the elections. It could require the regulations of the duties to be performed, the custody of the ballots, the mode of ascertaining the result, "and every other matter relat-

ing to the subject." It can provide for keeping the peace at such elections and by arresting and punishing those guilty of breaking it.

Officers or persons authorized by State laws to perform certain duties must disregard State laws when they come in conflict with the act of Congress. "When the regulations of Congress conflict with those of the States, it is the latter which are void, and not the regulations of Congress." (Ex parte Seibold, 100 U. S., page 381.) Congress can provide for the appointment of supervisors and deputy marshalls, and such other officers as it may deem proper for the conduct of the election. In Ex parte Seibold, supra, the Supreme Court has even held that Congress had constitutional power to enact a law for punishing a State officer of elections for the violation of his duty under a State statute in reference to an election of a Representative or Senator in Congress. The action of Congress under the authority vested in it by the Constitution, would be the supreme law of the land.

It has been held that the power of Congress to interfere for the protection of voters at Federal elections existed before the adoption of the 14th Amendment. But it has never been claimed that the power of Congress to regulate elections conferred on it authority to prescribe the qualifiications of voters. On the contrary, Section 2 of Article 1 of the Constitution expressly provides that the electors in each State who vote for Senators and Representatives, shall have the qualifications requisite for electors of the most numerous branch of the State Legislature. The Supreme Court of the United States has repeatedly declared that the Constitution of the United States itself has adopted as qualifications of electors for members of Congress those prescribed by the States for electors for the most numerous branch of the State Legislature, and the same provision now applies as to the qualification for electors for members of the Senate. Hence no one can successfully contend that the Congress of the

United States has any power to interfere with the exclusive right of the State to prescribe the qualifications of its electors, so long as such qualifications do not discriminate against the exercise of the right of suffrage on account of race, color or previous condition of servitude, or on account of sex, in the event of the 19th Amendment is adopted.

No man can vote in the Federal elections unless he is entitled to vote in the State, says the Supreme Court in Pope vs. Williams, supra. And Mr. Justice Peckham, speaking for the Court in that case, said "The right of the State to legislate upon the subject of the elective franchise as to it may seem good, subject to the condition that the right to vote shall not be abridged or denied on account of race, is unassailable." Yet, while it is true that Congress could not fix the qualifications of voters under its authority to regulate elections, it could through its officers and agents exercise a supervisory power over the subject. It is generally conceded that neither the Constitution of Alabama, Mississippi, South Carolina, Virginia, or other Southern States, discriminate between the races in the qualifications of voters. If there is any discrimination it is found in the exercise of the discretion vested in the registrars in granting or refusing registration. Under the Constitution of Alabama no person can vote at any election of the people who is not registered and qualified. When the registrars arbitrarily refuse the right of registration to those who possess the qualfications demanded by the laws of the State, what would prevent Congress from providing that its officers or agents could examine and ascertain whether any person offering to vote and who had been denied registration unjustly, had the qualifications required by the laws of the State, and if found qualified, to allow the vote to be cast and counted. What would prevent Congress from providing its own registrars with authority to register at such times and places as it might determine all voters who possess the qualifiications demand-

ed by the laws of the State? It would be contended that Congress was not exceeding its constitutional powers by undertaking to fix the qualifications of voters, but was only exercising its authority "to make or alter the regulation of elections made by the States" by providing that a person possessing the qualifications required by the laws of the State could vote, even though the registration had been denied by the State authorities.

The pivotal question, therefore, is whether the laws of Alabama on the subject of registration are or are not merely election regulations. Registration is nothing but a method of proof prescribed for ascertaining the electors who are qualified to cast votes. The registers are merely the list of such votes. If, therefore, registration is a mere regulation, there can be no question as to the power of Congress to alter the regulation, or to make entirely new regulations providing for the registration of those found qualified by the laws of the State by its own officers or agents, or by altering, changing, modifying or subtracting from, the regulations made by the State on the subject.

But even if it be conceded that the statutes of the State providing for the registration of voters do not constitute regulations of elections within the meaning of Article 1, Section 4 of the Constitution, and that, therefore, Congress cannot make or alter them, le us inquire what power on the subject would be vested in Congress by the provisions of the 15th Amendment, which, by its second section, Congress is commanded to enforce by appropriate legislation. It has been declared by the Supreme Court that the power of Congress to legislate at all upon the subject of voting at State elections, excluding from consideration the power conferred by Section 4 of Article 1 of the Constitution, rests upon the 15th Amendment. (See U. S. Reece, 92 U. S., 218.)

Under the authority conferred by Section 2 of the 15th Amendment, Congress has heretofore undertaken to per-

mits those who are entitled to register under the State laws, and who have been wrongfully denied that right on account of race, to be allowed to vote; and has also undertaken to punish any State official who, in violation of the laws of the State, denied the right of registration. Under the Act of May 31, 1870, 16th Statutes, 140, the 3rd Section of the act is to the effect that whenever by or under the Constitution of any State any act is or shall be required to be done by any citizen as a prerequisite to qualify or entitle him to vote, the offer of such citizen to perform the act required to be done shall, if it fail, be carried into execution by reason of the wrongful act or omission, as aforesaid, of the person or officer charged with the duty of receiving or permitting such performance or offer to perform, the action there on, shall be deemed and held as a performance of such act; the person so offering and failing, as aforesaid, and being otherwise qualified, shall be entitled to vote in the same manner and to the same extent as if he had in fact performed such act. The act further provides that any judge, inspector, or other officer of election whose duty it is to receive, count or give effect to the vote of any such citizen, who shall wrongfully refuse or omit to receive, count, etc., the vote of such citizen upon the presentation by him of his affidavit stating such offer, etc., shall for every such offense forfeit and pay the sum of $500.00, and be guilty of a misdemeanor and fined, etc.

Under the Constitution of Alabama the Act of registration is a prerequisite to qualify or entitle any citizen to vote, and hence, by the provision of the section voted, if a citizen who is otherwise qualified is denied registration, his offer to register shall be held as a performance in law of such registration, and he shall thereupon be entitled to vote, and any judge, or inspector, or other officer of election who shall wrongfully refuse to receive and count such vote upon a presentation of the affidavit required, is

subject to pay $500.00, as well as liable for criminal prosecution. Was such a statute as that quoted, appropriate legislation to enforce the provisions of the 15th Amendment. In answering the question in the case of the United States vs. Reece, the Supreme Court of the United States, speaking through Chief Justice Waite, declared that while it could not be contended that the 15th Amendment confers authority to impose penalties for every wrongful refusal to receive the vote of a qualified elector at a State election, yet when such wrongful refusal is because of race, or color, or previous condition of servitude, Congress can interfere and provide for its punishment. They accordingly held that the 3rd Section of the law we have quoted could not be sustained, not because of a lack of authority on the part of Congress to enact it, but because it failed in express terms to limit the offense of the inspector of elections for which the punishment is provided to a wrongful discrimination on account of race. Moreover, they held that that law was expressed in language which was too general, too uncertain, and too liable to deceive the common mind. We have quoted this statute at length, and the decision sustaining its constitutionality, because it seems to clearly establish the proposition that whenever by the action of registrars in Alabama or other Southern States negroes who are otherwise qualified are arbitrarily denied the right to register, congress has power under the 2nd Section of the 15th Amendment by a proper statute to make the offer to register equivalent to actual registration, if the negro so offering is otherwise qualified, and the denial of registration is on account of his race or color.

In Ex parte Yarbrough, supra, Justice Miller, delivering the opinion of the Court, qualified the opinion of the Court in the case of Minor vs. Happersett, supra, which declared the Constitution of the United States does not confer the right of suffrage upon any one, by saying the Court did not intend to say that the right to vote for a member of

Congress was not fundamentally based upon the Constitution which created the office of member of Congress, and declared it should be elective, and pointed to the manner of ascertaining who should be elected. The 15th Amendment, he declared, by its limitation on the power of the States and the United States "Clearly shows that the right of suffrage was considered to be of supreme importance to the National Government, and was not intended to be left within the exclusive control of the states." He further declared that the right with which the citizens of African descent were invested by the 15th Amendment of exemption from discrimination in the exercise of the elective franchise on account of race and color, was a new constitutional right, the protection of which was within the power of Congress. In the very able opinion he rendered, he further announced that the exercise of that right both in the election of members of Congress and in other elections, was guaranteed by the Constitution, and should be kept free and pure by Congressional enactment whenever that is iecessary.

But, it will be claimed that the fear on the part of the South that Congress will undertake by legislation to enforce the provisions of the 15th, or 19th Amendments, if the 19th Amendment is adopted, in view of their refusal since the defeat of the Force Bill years ago to take further action, is without any serious basis. Yet no one can safely forecast what legislation the exigencies of party politics may provoke. It is not my purpose, however, to undertake to predict what action Congress may take, but rather, to show the falsity of the position of those who claim Congress is without authority under the Constitution to enact laws which will secure to negroes, both male and female, otherwise qualified, the right to register and vote. Nor will I undertake to point out in this discussion and in this forum the tremendous influence which the newly emancipated women of the United States would exer-

cise in politics, or the power and influence they could bring to bear on Congress through the solidarity of the action of their national organization, if they should decide that the South is denying and abridging the right of colored women to vote, who might otherwise be qualified, on account of their race or sex. Yet no one can deny that both the 14th and the proposed Amendment abridges one of the functions most essential to the existence of the States,—the right to determine for itself who shall constitute its electorate. It was even contended with some force that any invasion of that right was beyond the power of amendment conferred upon three-fourths of the State by the people in the adoption of the Constitution. But however that may be, the recent amendments to the Federal Constitution and the one now proposed would seem to inaugurate a new constitutional policy,—of states cheerfully surrendering and transferring to the Federal Government part of those important reserved rights which formerly were so jealously guarded and defended as essential to "an indestructable Union composed of indestructable States."

Does this and other recent amendments to the Federal Constitution forecast a well established policy on the part of the States to surrender and transfer to the Federal Government the larger part of those reserved rights upon which their sovereignty rests, and to create at Washington a consolidated government, exercising the functions heretofore considered as local in character, and the preservation of which by the States was heretofore considered as necessary to the perpetuity of our beautiful Federal systhem. Those who are advocating such a policy of consolidation should remember that there is one fact that stands out in bold relief in the governmental history of the world,—the fact that "Central power is not vitalizing," and that to strip the States of their power to regulate their own electorate, and to manage their own local affairs, and

to transfer them to the Federal Government, would be "a fatal blow to their economic and political growth, and would be but the forerunner of their slow decay and disintegration." The lessons of history teach us that those governments which have longest endured, and longest enjoyed the blessings of free institutions, are the governments which have most sacredly preserved the principles of local self-government, the most cherished possession of the English speaking races.

Even though it be conceded that the mass of women of the country by their splendid services during the recent war have demonstrated their capacity for the exercise of the suffrage, and that its possession would tend to elevate the tone of our political life and secure many needed reforms, yet these blessings and reforms could all be secured by the action of the individual States. No one can deny, however, that the adoption of the proposed amendment will but intensify the difficulties of the solution of the racial problem in the South, and threaten our future with perils it would be folly for us to ignore.

If woman suffrage is authorized by the Constitution of the State, the majority of the people can at any time strike out the provision by a process not more formidable than repealing a legislative enactment. Imbed such a provision in the Constitution of the United States and it will be practically impossible for the people of the United States to modify or repeal it. However mistaken the policy may be discovered by actual experience to be, it will, by the adoption of the amendment, be so riveted down in the Constitution as to be hereafter practically unchangeable.

With the adoption of the amendment the great mass of negro women in Alabama and the South would become a part of the electorate. All negro women over twenty-one years of age, who are residents of the State for the prescribed period, who can read a section of the Constitution

of the United States, and who have been engaged in some work or occupation for the greater part of the twelve months preceding the registration; or, who if unable to read, possess real or personal property of the value pre scribed by the Constitution, would be entitled to register and vote. The addition of this mass of negro women to the electorate, most of whom would be wholly lacking in the character and qualifications which alone fit a citizen for the art of self-government, would unquestionably menace the domination of the white race, and might restore those deplorable conditions from which we have happily escaped.

To escape the admitted evils which might follow, the advocates of the amendment claim that we can rely on our registrars refusing to admit negro women to registration. But the registrars are commanded by the State Constitution to admit to registration those found to possess the qualifications prescribed, and they would be acting illegally in refusing registration to those who were qualified.

It therefore follows that the only defense suggested by the advocates of the amendment against the dangerous evils which might result from the admission of those large masses of incompetent women voters is one based in an illegal and wrongful action on the part of our registrars. Can the people of Alabama or the South afford to rest their protection against this threatened flood of incompetent electors upon a defense builded on fraud and wrong doing? Such a defense, if available, would only be temporary.

The Republican Party, as is well known, has claimed chief credit for the submission of the proposed amendment. Assuming the position of protectors for the newly emancipated women they would be swift to introduce and enact laws to enforce the new amendment, and prevent the denial of the right to register or vote on account of race or sex.

The Grandfather clause in the Alabama Constitution has long since expired by limitation, and it could not again be invoked to meet the situation, because it has been ex-

pressly denounced as unconstitutional by the Supreme Court of the United States. But it will be claimed that the Supreme Court of the United States, in Williams vs. Mississippi, 170 U. S., 213, sustained the Constitution of Mississippi, and as the Alabama Constitution contained a similar provision, that that court has in effect decided that neither Constitutions on their face discriminate between the races. But it is well to remember that in that decision the Supreme Court announcd "That though the law itself be fair on its face, and impartial in appearance, yet, if it is applied and administered by a public authority with an evil eye and an unequal hand, so as to practiclly make unjust and illegal discriminations between persons in similar circumstances, material to their rights, the denial of equal justice within the prohibition of the Constitution." Neither the Constitution of Mississippi or Alabama can be successfully attacked on the ground that they on their face discriminate between the white and negro race, or deny the equal protection of the laws secured by the 14th Amendment. However, if in their administration it could be shown that they are applied and administered by public authority, by registrars or other public officials "with evil eye and the unequal hand, so as to make unjust and illegal discriminations between persons in similar circumstances, material to their rights," they could be successfully attacked for the denial of that equal justice, which is still within the protection of the Constitution.

But aside from evils or blessings which might follow the adoption of the amendment, it cannot be denied that both the 15th and 19th Amendments abridge one of the functions most essential to the existence of the States by denying the plenary power they formerly possessed to prescribe who shall vote, and to that extent lessen their sovereignty, and increase the power of the Federal Government at their expense.

It is utterly impossible that any State can be sovereign

which does not entirely control its own laws with regard to suffrage. Nor does it make the slightest difference that this surrender of its powers is voluntary. As declared by the Supreme Court of the United States, each State is endowed with all of the functions essential to separate and independent existence; and theer can be no independent State while the right of suffrage is controlled by an external power.

The wise men who framed the Constitution of the United States never undertook to interfere in the slightest degree with the exclusive right of the States to control their own suffrage and elections. Even Alexander Hamilton, who was a leader of the centralizing tendencies of his day, declared in the Federalist "Suppose an article had been introduced into the Constitution empowering the United States to regulate the elections for the particular States, would any man have hesitated to condemn it both as an unwarrantable transposition of power, and as a premeditated engine for the destruction of State governments." Should not both the 18th and the proposed 19th Amendments be condemned in the language of Hamilton as an unwarrantable transposition of power, and as a premeditated engine for the destruction of State governments.

In determining whether the proposed amendment should be ratified or rejected the country should not be influenced by political considerations, or held to the specious plea of a selfish expediency. It has been strenuously urged that the failure of the South to ratify would alienate the suffrage states and bar to us the hope of success in the next national election. Yet the sacrifice of principle, the overthrow of the nice balance between state and Federal power so wisly adjusted by the framers of the Constitution, and the serious evils which will follow the practical surrender by the states of the right to control their suffrage and elections would be rather a costly price to pay for political power. Whenever the states are willing to surrender and transfer to the federal government their essential reserved

rights in consideration of temporary political power and patronage, the power to amend the Constitution instead of being a method of correcting admitted evils or securing necessary changes will become the most powerful instrument yet devised for the destruction of our dual system of government. The States have plenary power to grant to women the right of suffrage, and hence the amendment is unnecessary, and an amendment which is unnecessary is unwise, useless and harmful.

REPORT OF
THE SPECIAL COMMITTEE APPOINTED TO PRESENT TO THE LEGISLATURE A BILL FOR A UNIFORM SYSTEM OF COURTS.

HENRY UPSON SIMS, Chairman
OF BIRMINGHAM

To the President and Members of the Alabama State Bar Association:

This Committee was authorized at the last meeting of the Association to reconsider the Bills for a unified system of courts presented to that meeting in the report of the Committee on Legislation; and after reconsidering those bills to present such bills and conclusions as they might decide upon to the Legislature with their recommendation that they be enacted into laws.

This Committee, as appointed by the President, consists of Messrs. W. T. Sanders of Athens, A. H. Carmichael of Tuscumbia, E. D. Smith of Birmingham, Harry T. Smith of Mobile and the Chairman, H. U. Sims of Birmingham. But upon issuance of the first call for a meeting done last September, Mr. H. T. Smith replied expressing his entire disagreement with the plan of the bills, and Mr. Carmichael who as a member of the Senate must necessarily consider judicially any bills your committee might present appeared unwilling to act with the committee. So the remainder of the committee, Mr. Sanders, Mr. E. D. Smith, and the Chairman were left to act somewhat informally.

We three have put a good deal of time, however, as individuals upon consideration of the problems involved in the subject matter referred to us. We were in no sense wedded to the bills reported to the Association last year, although they were drawn almost entirely by the Chairman of this new committee. It is believed, however, that those bills embodied most of the substance of what is generally known among reformers as a unified system of

courts; and as they are believed to accomplish that unification within the limits of our present State constitution, there were few changes that could be made in them in principle. The only question was, how much if any of the plan involved in them should be adopted now? and how much was to be laid by for future reconsideration or adoption?

Your committee, through Mr. Sanders and the Chairman, decided to urge first upon the Legislature that part of the bills which provides the reinstatement of specially elected chancery judges over the State, instead of the present plan, since the adoption of a consolidated court, of allowing the equity cases to be decided by any circuit judge who happens to hold a court in a circuit. There is a general demand among the bar over the State for a revival of the Chancery court and we believed the plan presented in the bills last year of merely electing a proper number of equity circuit judges, as is done in Jefferson County, is the proper way to meet the demand. In short, to create an equity division in the circuit court for each county just like the equity division of the Jefferson circuit court. The equity judges would travel around all over definite chancery divisions of the State and sit in the equity side of the several circuit courts according to a stated schedule appropriately laid out.

By appointment on the 1st of April, Mr. Sanders and Mr. Sims presented this plan very fully before the Recess Judiciary Committee of the Legislature, and we were accorded every courtesy by that committee. But they have since advised us that to carry out our plan they find it would be necessary to increase the number of circuit judges in the State; and that they felt they were not warranted in doing. So there seems little prospect of accomplishing even this much needed reform. And we need not say that we think they are mistaken in believing that more judges would be required to allow the chancery cases to be set specially before judges who could consider them more rap-

idly and decide them better than they are now sometimes decided.

At the same hearing before the Recess Committee we presented to them also the desirability of recasting the appellate system of courts of the State. Indeed now that the substantial consolidation of the lower courts has been accomplished, probably the greatest need we have is to recast the appellate system of our courts. There is no need for the present delay in getting cases into our appellate courts; there is no need for the present elaborate system of bills of exceptions and costly transcripts; and there is no need for the present delay in getting the cases decided on appeal. There is not even the generally assumed need of elaborate written opinions by the appellate courts. If the law is to be kept short of chaos in the next ten years, the present system of opinions must be abandoned from the mere fact of their bulk.

But all that the Recess Committee of the Legislature has no time to think about. And until they do have time to think about it, it is useless to try to explain it to them. Reforms must always begin in the heads of those empowered to bring them about; and that means that until our bar seek information more broadly beyond their personal experience, and think more outside of the mere practice of the profession, they cannot hope to matedially improve our present system of justice.

ORGANIZATION

Montgomery, Ala., Dec. 13, 1878.

The undersigned members of the legal profession, believing that the formation of a Bar Association of Alabama is desirable, respectfully request the members of the Bar of each County to appoint one or more delegates to attend a Convention of the Bar of the State, to be held in the Hall of the House of Representatives, on the 15th day of January, next, at 7 P. M., and that E. W. Pettus and Wm. M. Brooks, of Selma, and W. L. Bragg, of Montgomery, are requested to prepare a plan of organization to be submitted to said Convention.

D. S. Troy
T. H. Watts, Sr.
W. L. Bragg
John A. Minnis
Jos. Wheeler
L. P. Walker
F. B. Clark, Jr.
Gaylord B. Clark
Neil McCarron
Geo. F. Moore
J. J. Robinson
E. J. Fitzpatrick
John W. A. Sanford
H. C. Tompkins
John Enochs
Leroy F. Box
A. H. McClung
Wm. G. Cochrane
H. A. Woolf
Alexander Troy
T. M. Arrington
E. P. Morrissett
C. J. Watson
Thos. G. Jones
Milton Humes
W. G. Little, Jr.
J. M. Faulkner
Lester C. Smith
J. S. Winter
M. L. Stansel
W. S. Thorington
J. Little Smith
W. P. Chilton
David Clopton
Geo. P. Harrison, Jr.
J. L. Cunningham
A. C. Hargrove
L. A. Dobbs
Jno. D. Roquemore
Jno. A. Padgett
J. R. Satterfield
W. E. Clarke
J. W. Bush
Jno. T. Heflin
C. F. Hamill
John A. Foster
Malachi Riley
A. L. Brooks
Thos. W. Williams
F. W. Bowden
G. D. Campbell
H. A. Sharpe
W. P. Jack
I. T. Holtzclaw
Wade Keyes
W. A. Gunter
H. C. Semple

Pursuant to the foregoing call, a preliminary conference in reference to organizing a State Bar Association met in the Hall of the House of Representatives on the 15th of Jaiuary, 1879.

On motion of D. S. Troy, L. P. Walker of Huntsville, was unanimously elected chairman of the meeting and on motion of J. J. Robinson, of Chambers, Geo. W. Taylor, of Choctaw, was elected secretary pro tem., and the names of thirty members of the Bar, desirous of organizing a State Bar Association, were enrolled by the Secretary.

Messrs. E. W. Pettus, Wm. M. Brooks and W. L. Bragg, the Committee designated and requested in the call to draft a plan of organization to be submitted to the conference through W. L. Bragg, reported a Constitution and By-Laws of the Alabama State Bar Association.

The report of the Committee was received, and the Constitution and By-Laws, subject to amendment by the conference, were adopted.

On motion of Joseph Wheeler, of Lawrence, Alex. Troy of Montgomery, was elected Secretary and Treasurer of The Alabama State Bar Association as organized under said Constitution and By-Laws.

On motion, the conference adjourned to meet at the same place on Monday, 20th January.

At the re-assembling of the meeting the Chairman, L. P. Walker, being absent, on motion of W. G. Little, Jr., of Sumter, Thos. H. Watts, Sr., of Montgomery, was called to the Chair.

The proposed changes in the Constitution and By-Laws were agreed to unanimously.

D. S. Troy then introduced the following resolutions, which were adopted.

Resolved, That this Convention elect a President and five Vice-Presidents of the Bar Association of the State to serve under the Constitution and By-Laws reported by the Committee as amended by this Convention until the

first annual meeting of said Association, which shall be held on the first Tuesday in December, 1879.

Resolved, That the President of said Association, elected by this Convention, shall appoint the Executive Committee and Central Council, provided for in said Constitution and By-Laws and the persons thus appointed shall discharge the duties of the positions to which they may be appointed, until said first annual meeting and until their successors are elected or appointed, as provided in said Constitution and By-Laws.

Resolved, That any member of the Bar of this State. who shall sign or authorize his signature to the roll of membership of said Bar Association, and pay to the Secretary and Treasurer the initiation fee within sixty days from this date, shall be a member of this Association, and said Constitution and By-Laws shall become operative at the expiration of said period of sixty days on all who shall have subscribed the roll of membership, and paid the initiation fee.

Resolved, That it shall be the duty of the Secretary, without delay, to send by mail a printed copy of said Constitution and By-Laws and of these resolutions to every member of the Bar of this State whose address can be ascertained, and also circular stating briefly the action of this Convention, the names of the officers elected by it, and the names of the Executive Committee and Central Council appointed by the President.

Resolved, That the Chairman appoint a committee of three to prepare an act of incorporation of the Association, conferring such powers as may be necessary to accomplish the objects declared in the Constitution, and, if practicable, to secure the enactment by the General Assembly.

The Chair appointed W. L. Bragg, W. G. Little, Jr. and G. B. Clark, as the committee to prepare the act of incorporation.

On motion, the Chair appointed a committee of three, consisting of D. S. Troy, J. Little Smith, and H. A. Wolf,

to nominate a President and five Vice-Presidents for the ensuing year.

The Committee, after deliberation, reported the following as the officers of the Association:

President, W. L. Bragg, Montgomery; Vice-Presidents, Peter Hamilton, Mobile; E. W. Pettus, Selma; L. P. Walker, Huntsville; H. M. Somerville, Tuscaloosa; Jas. L. Pugh, Eufaula.

The report of the Committee was unanimously adopted.

W. G. Little, Jr., offered the following resolution, which was adopted:

Resolved, That this Bar Association, recommends the Alabama Law Journal, published at Tuscaloosa, to the profession of this State as worthy of their support and patronage.

The meeting then adjourned.

THOS. H. WATTS, Chairman.

ALEX. TROY, Secretary.

ACT OF INCORPORATION

AN ACT

Incorporating the Alabama State Bar Association.

Section 1. Be it enacted by the General Assembly of Alabama, That Edmund W. Pettus, Leroy P. Walker, Peter Hamilton, James L. Pugh, William M. Brooks, William G. Little, Jr., John Little Smith, and Walter L. Bragg, and their associates and successors; be and they are hereby made a body corporate under the name of, "The Alabama State Bar Associtaion," and with power under that name to sue and be sued, plead and be impleaded, answer and be answered unto, in any of the courts of law or equity in this State, to have a common seal, and to break or alter the same at pleasure, to have, hold and enjoy real and personal estate of the value of not more than twenty thousand dollars, and in addition thereto a library or libraries of books of law or learning without limitation as to value, to buy, sell or dispose of, or acquire in any way property within the limits aforesaid, and for the purposes and objects of the Association as hereinafter set forth.

Sec. 2. Be it further enacted, That the purpose and objects of the said incorporated Association are hereby declared to be: To advance the scinece of jurisprudence, promote the administration of justice throughout this State, uphold the honor of the profession of the law, and to establish cordial intercourse among the members of the Bar of Alabama.

Sec. 3. Be it further enacted, That said Association shall have power to make a constitution, by-laws, rules and regulations for the order and government of said Association, or of any officer or agent thereof, and to provide for the trial and expulsion of members, or removal of any officer or agent, and to elect a President, five Vice-

Presidents, a Secretary-Treasurer, and all other officers which in its discretion may be deemed necessary or proper for carrying out the objects of the organization, to impose fines and penalties on its members for violation thereof, and that the funds thus received shall be applied to such purposes as the said Association may direct.

Sec. 4. Be it further enacted, That the officers thus elected shall hold office for such time as the said Association shall prescribe; and a failure to elect officers at the proper time therefor shall not operate as a dissolution of the corporation, but such officers shall retain their power and offices until their successors shall be elected or appointed.

Sec. 5. Be it further enacted, That this charter of incorporation can be rendered operative by the said Association organizing or acting thereunder at any time within one year after the passage of this Act, and any organization of said Association heretofore made with reference to obtaining the benefits of this Act of incorporation shall, if operated under the provisions of this Act, be and acceptance thereof if done at any time within the period of one year as aforesaid; and any constitution, by-laws, rules and regulations heretofore adopted by said Association, to take effect then or at a future time under the provisions of this Act of incorporation, shall in all things be as valid as if such constitution, by-laws, rules and regulations, had in all respects been prepared and adopted by said Association to take effect then or at a future time under the provisions of this Act of incorporation, shall in all things be as valid as if such constitution, by-laws, rules and regulations had in all respects been prepared and adopted by said Association after the passage of this Act.

Approved February 12, 1879.

AN ACT

To amend Sections 598, 599, 600, 601, 603, 605, 606, and 610 of the Code of Alabama, (1896).

Be it enacted by the Legislature of Alabama:

Section 1. That Section 598 of the Code of Alabama be, and the same is hereby amended so as to read as follows: The Alabama State Bar Association, or the Central Council thereof, has authority to institute and prosecute, or cause to be instituted and prosecuted, in the name of the State of Alabama, the proceedings herein prescribed for the suspension or removal of any attorney.

Sec. 2. That Section 599 of said Code be, and the same is hereby amended so as to read as follows: The accusation must be in writing, and when the prosecution is instituted by the Alabama State Bar Association, or the Central Council, and attested by the Secretary of said Association, accompanied by written affidavit of any person or persons making charges for suspension or removal of such attorney, if any, taken before any officer authorized by law to administer oaths within or out of the State, setting forth the facts upon which the same may be based, shall be delivered by the Secretary of said Association to the Solicitor of the Circuit in which such attorney resides and thereupon, or when the proceeding is taken by the court of its own motion, the Solicitor of said Circuit shall draw up such accusation, citing the accused to appear before said Circuit Court, or City Court, or court of like jurisdiction, on a day named therein, and moving the court for the suspension or removal of such attorney, and have the same served by the sheriff of the county of such attorney's residence, by leaving a copy thereof with the accused.

Sec. 3. That Section 600 of said Code be, and the same is hereby amended so as to read as follows: If the

proceedings are upon the information of an individual, the accusation must be in writing, setting forth the facts upon which the charges are based, verified by the oath of such individual, or some other person, taken before any officer authorized by law to administer oaths in or out of the State, that such facts are true, and must be presented to and filed in said Circuit Court, or City Court, or court of like jurisdiction, accompanied by security for costs to be approved by the judge thereof.

Sec. 4. That Section 601 of said Code be, and the same is hereby amended so as to read as follows: When the accusation is made by an individual, the Circuit Court, or City Court or court of like jurisdiction, must be of opinion that the accusation would, if true, furnish grounds of suspension or removal of such attorney, make an order requiring the accused to appear and answer the same at a specified day during that, or the next term, or at anq other time, which the court can hear and determine the same, a copy of which, together with a copy of the accusation, must be served upon the accused; provided, that if such order is made, or the proceedings are instituted by the court of its own motion, or as provided by Section 2 of this Act, ten days before any term of the court, or before the adjournment thereof such accusation must be made returnable and be heard during said term, unless continued for good cause by the Court, upon such terms as it may impose.

Sec. 5. That Section 603 of said Code be, and the same is hereby amended so as to read as follows: The accused may answer such accusation, either by objecting in writing to the sufficiency thereof, or by denying the truth of the facts alleged or setting forth the facts of his defense, which said answer as to facts, by denial or otherwise, must be in writing, signed by the accused and verified by his oath, and the accusation, objections and answers in said proceedings are hereby made a record therein as in other civil suits or proceedings in said Court.

Sec. 6. That Section 605 of said Code be, and the same is hereby amended so as to read as follows: If the accused pleads guilty, or fails or refuses to answer the accusation, the court must proceed to judgment of suspension or removal; if he answers the accusation, the court must immediately, or at such time it may appoint, proceed to try the same, either side having the right to demand a trial by jury; if no jury is demanded, the court in trying the same shall make and file a statement of the facts established by the evidence, and if the jury is demanded, the jury must make a special finding of the facts, upon issues of facts submitted by the court, and upon such statements of facts by the court, or special findings of facts by the jury, the court must render judgment of acquittal or suspension, or removal, of the accused, as such facts may warrant; provided, however, that such accused attorney may stop or prevent such prosecution by a surrender of his license as an attorney in all the courts of the State of Alabama, a record of which surrender shall be made in the Supreme Court of said State.

Sec. 7. That Section 606 of said Code be, and the same is hereby amended so as to read as follows: The proceedings when instituted by the court of its own motion, or when the written statement hereinafter provided for has been presented by the Alabama State Bar Association, or its Central Council, to the Solicitor of the Circuit, in which the accused resides, must be conducted in the name of the State, and when on the information of an individual in the name of the State upon the information of such person; and in all cases the Solicitor of said Circuit shall appear and sustain such accusation, and be responsible for the faithful performance thereof as of other official duties required of him by law; provided, however, that the court may, upon the motion of said Solicitor, and upon good cause shown at any time require said The Alabama State Bar Association to give security for the costs of such proceedings to be approved by the court within ten days from

notice to the Secretary of said Association, by said Solicitor, and the hearing of said cause shall be postponed for that time, unless such security shall be sooner given.

Sec. 8. That Section 610 of said Code be, and the same is hereby amended so that the same shall read as follows: Either party may appeal to the Supreme court from any adverse judgment rendered by said Circuit Court, City Court, or court of like jurisdiction, in said proceedings, at any time within thirty days after such judgment, in the manner now prescribed by law for appeals in civil cases, and may reserve by bill of exceptions any question proper to be reserved in civil causes and the judgment rendered in said proceedings, and the Supreme Court may affirm, modify, or reverse such judgment, or render such judgment in such proceedings as the Circuit Court, City Court, or court of like jurisdiction, should have rendered.

Sec. 9. Whenever any disagreement or controversy arises between an attorney at law and any other person, respecting the amount of the compensation to which he is entitled by contract or otherwise, and his retention of the same out of any funds in his hands, such attorney may by motion in the Circuit Court, City Court, or court of like jurisdiction, of the county of his residence of which such other person shall have notice, obtain an order of said court, that a certain amount is due him under such contract, or would be reasonable compensation for his services, and when such motion is made and order obtained, such attorney shall not be subject to prosecution, suspension or removal under this act, and other penalty therefor; but nothing herein contained shall affect or destroy any civil action to which any person would be entitled against such attorney respecting the same or any criminal prosecution to which the accused would be otherwise liable.

Sec. 10. All laws and parts of laws in conflict with this act are hereby repealed.

Approved October 3, 1903.

AN ACT

To amend Section 2995 of the Code.

Be it enacted by the Legislature of Alabama, That Section 2995 of the Code be amended so as to read as follows:

Section 1. The Alabama State Bar Association or the Central Council thereof has authority to institute and prosecute or cause to be instituted and prosecuted in the name of the State of Alabama the proceedings herein prescribed for the suspension or removal of an attorney. Provided, however, that when such proceedings are instituted by said Bar Association or its Central Council, no security for costs shall be required to be given, nor shall said Association or the Central Council or the members thereof be liable for costs if the proceedings instituted by it are not sustained.

Approved August 25, 1915.

AN ACT

To prescribe the time within which proceedings for the disbarment of an attorney at law must be begun.

Be it enacted by the Legislature of Alabama.

Section 1. That all proceedings in any court of this State to disbar any attorney authorized to practice law in this State must be begun within three years after the Act made the basis of such proceedings shall have been commit-ed.

Section 2. That all laws and parts of laws, either general, special or local, in conflict with this Act be and the same are hereby repealed.

Approved September 28, 1915.

CONSTITUTION

ARTICLE I.

The object of the Association shall be to advance the science of jurisprudence, promote the administration of justice throughout the State, uphold the honor of the profession of the law, and establish cordial intercourse among the members of the Bar of Alabama. This Association shall be known as "The Alabama State Bar Association."

ARTICLE II.

Any white member of the legal profession who is a member of the Bar of the State of Alabama and in good standing may become a member of the Association either by vote of the Association on open nomination at any meeting, or by vote of the Executive Committee at any meeting of that Committee held between meetings of the Association; provided that if any member of the Executive Committee shall object to the election of any person nominated before that Commitee, the nomination of such person shall be withheld to be acted upon at the next meeting of the Association, instead of his being elected by a majority of the Committee.

ARTICLE III

The officers of the Association shall be a President, five Vice-Presidents, a Secretary, a Treasurer, a Central Council of five members and an Executive Committee of five members, one of whom shall be the Secretary of the Association.

The two offices of Secretary and Treasurer may be filled by the same person, as the Association shall prescribe in

its By-Laws; and when this is done, there may be elected also an assistant to the Secretary and Treasurer, who shall act under his direction except as specially directed by the Association or the Executive Committee.

Each of the officers, including the Central Council and the Executive Committee, shall be elected at each annual meeting by the Association for the year next ensuing, but the same prson shall not be elected President two years in succession. All such elections shall be by ballot. They shall hold office from the adjournment of the meeting at which they are elected.

ARTICLE IV.

The Central Council shall consist of five members, and shall exercise supervision in behalf of the Association of the ethics and professional conduct of the Bar throughout the State; and the Council, or a majority of them, may in their discretion, exercise the authority of the Association, and such other authority as is now or may hereafter be conferred upon the Association or the Central Council by law, to institute prosecutions of attorneys for suspension or disbarment from the practice of the law in Alabama.

The Central Council shall be in addition at all times an advisory board for consultation and conference when called on for that purpose by the President or any Vice-President who may be acting as President for the time being.

ARTICLE V.

The President by and with the advice and consent of the Central Council, may establish a Local Council to assist the Central Council temporarily in performing its functions in any county of the State by issuing a warrant to that effect, naming therein the persons composing such Local Council. Each Council shall consist of not less than three nor more than seven members. No person shall be

eligible to appointment as a member of any Local Council who is not at the time a member of this Association.

ARTICLE VI.

The admission fee shall be five dollars and the annual dues shall be five dollars, to be paid as may be prescribed by the By-Laws. The admission fee shall be in lieu of the annual dues for the current year in which it is paid. No member shall be qualified to exercise any privilege of membership while his fees or dues remain unpaid.

ARTICLE VII.

By-Laws may be adopted at any annual meeting of the Association by a majority of the members present.

ARTICLE VIII.

The following committees shall be annually appointed by the President for the ensuing year, and shall consist of five members each:

1. On Jurisprudence and Law Reform.
2. On Judicial Administration and Remedial Procedure.
3. On Legal Education and Admission to the Bar.
4. On Publication.
5. On Correspondence.
6. On Legislation.
7. On Local Bar Associations.

A majority of the members of any committee, or of the Central Council who may be present at any meeting of such committee or council, shall constitute a quorum for the purposes of such meeting. Vacancies in any office provided for by this Constitution shall be filled by appointment by the President.

The President shall also appoint such other committees as shall be provided by the By-Laws or by resolutions of the Association from time to time.

ARTICLE IX.

The Central Council and Executive Committee shall each perform such duties as may be assigned to them by the President, or as may be defined by the By-Laws, except as herein otherwise directed.

ARTICLE X.

This Association shall meet annually at such time and place as the Executive Committee may determine, and those present at such meeting shall constitute a quorum. The Executive Committee shall require thirty days' notice of the time and place of meeting, by publication in a newspaper, to be given; which publication shall be made by the Secretary.

ARTICLE XI.

The President shall open each annual meeting of the Association with an address in which he shall communicate the most noteworthy changes in statute law on points of general interest made in the several States and by Congress during the preceding year.

ARTICLE XII.

The Constitution may be altered or amended by a vote of three-fourths of the members present at any annual meeting, but no such change shall be made at any meeting at which less than thirty members are present.

ARTICLE XIII.

Each Local Council shall perform such duties as it may be called upon to perform by the Central Council or by the President or as may be defined by the By-Laws.

ARTICLE XIV.

Any member of the Association may be suspended or expelled for misconduct in his relations to this Association or in his profession, on conviction thereof, as may be prescribed by the By-Laws.

ARTICLE XV.

This Constitution shall go into immediate effect. This Association shall be incorporated under the laws of the State of Alabama as soon as practicable, and until such incorporation all money and property of said Association shall be vested in the President and Treasurer, as Trustees thereof, who shall pay over and deliver the same to said corporation as its property as soon as the corporation is created by law.

BY-LAWS

I.

The President shall preside at all meetings of the Association, and in case of his absence one of the Vice-Presidents shall preside.

II.

The Secretary shall keep a record of all meetings of the Association, and all other matters of which a record shall be deemed advisable by the Association, and shall conduct the correspondence of the Association with the concurrence of the President. He shall notify the officers and members of their election and shall keep a roll of the members, and shall issue notice of all meetings.

III.

The Treasurer shall collect, and, under the direction of the Executive Committee disburse all funds of the Association; he shall report annually, and oftener if required; he shall keep regular accounts which shall be at all times open to inspection of the members of the Association. His accounts shall be audited by the Executive Committee. Before discharging any of the duties of his office, the incumbent shall execute a bond with good and sufficient surety, to be approved by the President, payable to the President and his successors in office, in the sum of five thousand dollars, for the use of the Association and conditional that he will well and faithfully perform the duties of his office so long as he discharges any of the duties thereof.

IV.

The Executive Committee shall meet at least once a month, except in July, August and September. They shall have power to make such regulations, not inconsistent

with the Constitution and By-Laws, as shall be necessary for the protection of the property of the Association, and for the preservation of good order in the conduct of its affairs. They shall keep a record of their proceedings, which shall be read at the ensuing meeting of the Association; and it shall be their duty to present business for the Association. They shall have no power to make the Association liable for any debts mounting to more than half the amount in the Treasurer's hands in cash, and not subject to prior liabilities. They shall perform such other duties as are required of them by the Constitution, or as may be assigned to them by the President.

The Executive Committee shall have power to reinstate a member who has been dropped from the roll for the non-payment of dues, upon the payment of such back-dues as the Committee shall think equitable, and it shall be the duty of the Committee to nominate such applicants for membership in the Association as have received their favorable consideration; or when their applications are received between meetings of the Association, to declare the applicants elected, if they see fit to do so, subject to the limitation set by the Constitution.

V.

The Central Council shall perform all such duties as may be required of them by the Constitution or as are assigned to them by the President, but they shall not be required to keep a record of their proceedings, nor shall they make any report to any meeting of the Association, unless such report is required by the Association, and then only as to the particulars about which they are required to report; and the provisions of this section shall apply also to the Local Councils.

VI.

At each annual, stated or adjourned meeting of the Association the order of business shall be as follows:

1. Address of the President.
2. Report of the Treasurer.
3. Report of the Executive Committee.
4. Election, if any, to membership.
5. Reports of Standing Committees.
6. Reports of Special Committees.
7. Election of Officers and appointment of Committees.
8. Miscellaneous Business.

This order of business may be changed by a vote of the majority of the members present.

The parliamentary rules and orders contained in Cushing's Manual, except as otherwise herein provided, shall govern all meetings of the Association.

VII.

If a person elected does not, within a month after notice of his election, signify his acceptance of membership by a letter to the Secretary to that effect, and by payment of the admission fee, he shall be deemed to have declined to become a member.

VIII.

In pursuance of Article VIII of the Constitution, there shall be the following Standing Committees:

1. A Committee on Jurisprudence and Law Reform, who shall be charged with the duty of attention to all proposed changes in the law, and of recommending such as in thei ropinion may be entitled to the favorable consideration of the Association.

2. A Committee on Judicial Administration and Remedial Procedure, who shall be charged with the duty of the observation of the working of our judicial system, the callection of information, the entertaining and examination of projects for a change or reform in the system, and of recommending, from time to time, to the Association such action as they may deem expedient.

3. A Committee on Legal Education and Admission to

the Bar, who shall be charged with the duty of examining and reporting what changes it is expedient to propose in the system and mode of legal education, and of admission to the practice of the profession in the State of Alabama.

4. A Committee on Publication, who shall be charged with the duty of examining and reporting when so required by the Association, upon matters proposed to be published by its authority.

5. A Committee on Correspondence, who shall be charged with the duty of corresponding with the officers and committees of other Bar Associations for the purpose of causing action relative to law questions of national importance.

6. A Committee on Legislation, who shall be charged with the duty of ascertaining and reporting to each meeting of the Bar Rssociation such legislation as it may approve of and consider necessary and proper to carry into effect the suggestions contained in the reports of the various committees, and papers read at any previous meeting; together with any proposed legislation referred to them by other committees in advance of being reported to the Association; and it shall at the expense of the Association, cause to be printed and distributed by the Secretary to the members of the Association, at least thirty days befor each annual meeting, in the form of bills or resolutions, all such measures as may be reported by it for their consideration, together with the report of the Committee.

All reports submitted to the Association recommending changes in the statutory laws, or amendments thereto, shall be accompanied by bills or joint resolutions in the form to be presented to the Legislature for enactment.

7. A Committee on Local Bar Associations, who shall be charged with the duty of encouraging the organization and maintenance of Local Bar Associations throughout the State, and their affiliation with this Association.

8. A Special Committee or Legislative Enactment shall be appointed by the President at the meeting next before

each session of the Legislature, which shall be continued until the annual meeting after the next session of the Legislature, and it shall be the duty of said Committee to present to the Legislature, all such bills, the enactment of which have been recommended by this Association.

The President may, whenever he deems it advisable, appoint as many special committees as he thinks proper, whose duty it shall be to promote the enactment by the Legislature of any bill or bills which have received the approval of this Association.

The Secretary of the Association, at the expense of the Association, shall furnish to each member of the Committee on Legislative Enactment and to each member of any Special Committee so appointed by the President, a copy of such bills as have been approved by the Association.

It shall be the duty of the Committee on Legislative Enactment and of the Special Committees to report to the Association next after the meeting of the Legislature.

9. A Special Committee of three members, to be known as the Committee on Violation of Ethics and Law by Attorneys whose duty it shall be to inquire into all alleged breaches of the ethics of the profession or violations of law by attorneys, armed with inquisitorial powers, and to institute proceedings before the Central Council for the purpose of disbarring or suspending any attorney whom they may deem to be guilty of offenses justifying disbarments or suspension.

Said Committee may sit during the year at such times and places as it mya determine.

IX.

Each of the standing committees shall consist of five members, and shall be appointed annually by the President of this Association, and shall continue in office until the annual meeting of the Association next after their appointment, and until their successors are appointed, with power to adopt rules for their own government not in-

consistent with the Constitution or these By-Laws. Any standing committee of the Association may, by rule, provide that three successive absences from the meetings of the committee, unexcused, shall be deemed a resignation of the member so absent, of his place upon the committee. Any standing committee of the Association may, by rule, impose upon its members a fine for non-attendance and may provide for the disposition of the fines collected under such rule.

By-Law X repealed July 14, 1910.

XI.

Nominations of candidates to fill the respective offices may be made at the time of election by any member, and as many candidates may be nominated for each office as members may wish to name, but all elections, whether to office or membership, must be by ballot. A majority of the votes cast shall be sufficient to elect to office; but five negative votes shall be sufficient to defeat an election to membership.

XII.

All vacancies in any office or committee of this Association shall be filled by appointment of the President and the persons thus appointed shall hold for the unexpired term of his predecessor; but if a vacancy occur in the office of President, it shall be filled by the Association at its first stated meeting occurring more than ten days after the happening of such vacancy and the person elected shall hold office for the unexpired term of his predecessor.

XIII.

Every member of this Association, except non-resident honorary members, shall pay his annual dues to the Treasurer on the first day of March in each year, and if said dues remain unpaid at the time of the meeting of the As-

sociation, following the accrual of such dues, the members so in default shall be dropped from the roll of members.

XIV.

These By-Laws may be amended at any stated, adjourned or annual meeting of the Association by a majority vote of those present.

XV.

Any officer may resign at any time upon settling his accounts with the Association. A member may resign at any time upon the payment of all dues to the Association; and from the date of the receipt by the Secretary of a notice of resignation with an endorsement thereon by the Treasurer that all dues have been paid as above provided, the person giving such notice shall cease to be a member of the Association.

XVI.

The offices of Secretary and Treasurer shall be filled by the Secretary, and his annual salary shall be five hundred dollars, one half of which shall be due on the first day of May, and the other half on the first day of November, but may be paid earlier or at any other time if the Executive Committee shall in writing so direct; but this shall be in full of all compensation to him. The salary, if any, to be paid the Assistant to the Secretary and Treasurer shall be fixed by the Executive Committee; but he shall be reimbursed for all expenses incurred in carrying out his duties. No other officers of the Association shall receive any salary or compensation.

XVII.

The Association shall have its annual meeting at such time and place as the Executive Committee may determine, and continue in session until all the business before

it is disposed of. If the President and Executive Committee shall determine that it is necessary for said Association to hold any other meeting, during any year, the same shall be held at such time and place as the Executive Committee may fix, and upon twenty days' notice of such time and place to be given by the Secretary, by publication in a public newspaper, and the Secretary shall give this notice upon the order of the President.

XVIII.

Each County, City or Local Bar Association of this State may annually appoint delegates, not exceeding two in number, to the next meeting of this Association. Such delegates, if not regular members of this Association, shall be entitled to all the privileges of membership at and during the said meeting except that of voting.

XIX.

No member shall be permitted to speak more than twice on any subject, and in debate, no speech shall exceed ten minutes in length, unless a majority of those present consent thereto.

XX.

The Association shall not take any partisan political action, nor indorse or recommend any person for any official position.

XXI.

The traveling and other necessary expenses incurred by the Special Committee on Violation of Code of Ethics and Law by Attorneys during the interval between the annual meetings of the Association shall be paid by the Treasurer, on the approval and by order of the Executive Committee.

CODE OF ETHICS OF THE ALABAMA STATE BAR ASSOCIATION.

Adopted December 14, 1887.

Note.—This Code was prepared by a Committee of the Association and is believed to be the first ever adopted. It has been the model for the Code adopted by the American Bar Association and many State Bar Associations.

The Association has had copies of this Code suitably printed on card board, framed and placed on the walls of every Court House in the State.

The purity, and efficiency of judicial administration which under our system is largely governmental itself, depend as much upon the character, conduct and demeanor of attorneys in this great trust, as upon the fidelity and learning of courts, or the honesty, and intelligence of juries.

"There is perhaps no profession after that of the sacred ministry, in which a high toned morality is more imperatively necessary than that of the law. There is certainly without any exception, no profession in which so many temptations beset the path to swerve from lines of strict integrity; in which so many delicate and difficult questions of duty are constantly arising. There are pitfalls and mantraps at every step, and the mere youth, at the very outset of his career, needs often the prudence and self-denial, as well as moral courage, which belongs commonly to riper years. High moral principle is the only safe guide; the only torch to light this way amidst darkness and obstruction."—Sharswood.

A comprehensive summary of the duties specifically en-

joined by law upon attorneys, which they are sworn "not to violate," is found in Section 791 of the Code of Alabama.

These duties are:

"First—To support the Constitution and laws of this State and the United States.

"Second—To maintain the respect due courts of justice and judicial officers.

"Third—To employ for the purpose of maintaining the causes confided to them, such means only as are consistent with truth, and never seek to mislead the judges by any false statement of the law.

"Fifth—To abstain from all offensive personalities, and to advance no fact prejudicial to the honor or reputation of a party or a witness, unless required by the justice of the cause with which they are charged.

"Seventh—Never to reject, for any consideration personal to themselves, the cause of the defenseless and oppressed."

No rule will determine an attorney's duty in the varying phases of every case. What is right and proper must, in the absence of statutory rules and an authoritive code, be ascertained in view of the peculiar facts, in the light of conscience, and the conduct of honorable and distinguished attorneys in similar cases, and by analogy to the duties enjoined by statute, and the rules of good neighborhood.

The following general rules are adopted by the Alabama State Bar Association for the guidance of its members:

DUTIES OF ATTORNEYS TO COURTS AND JUDICIAL OFFICERS.

1. The respect enjoined by law for courts and judicial officers is exacted for the sake of the office, and not for the individual who administers it. Bad opinion of the incumbent, however well founded, cannot excuse the with-

holding of the respect due the office, while administering its functions.

2. The proprieties of the judicial station, in a great measure, disable the judge from defending himself against strictures upon his official conduct. For this reason, and because such criticisms tend to impair public confidence in the administration of justice attorneys should, as a rule, refrain from published citicism of judicial conduct, especially in reference to causes in which they have been of counsel, otherwise than in courts of review, or when the conduct of a judge is necessarily involved in determining his removal from or continuance in office.

3. Marked attention and unusual hospitality to a judge when the relations of the parties are such that they would not otherwise be extended, subject both judge and attorneys to misconstructions, and should be sedulously avoided. A self-respecting independence in the discharge of the attorney's duties, which at the same time does not withhold the courtesy and respect due the judge's station, is the only just foundation for cordial personal and official relations between bench and bar. All attempts by means beyond these to gain special personal consideration and favor of a judge are disreputable.

4. Courts and judicial officers, in the rightful exercise of their functions, should always receive the support and countenance of attorneys against unjust criticism and popular clamor; and it is an attorney's duty to give them his moral support in all proper ways, and particularly by setting a good example in his own person of obedience to law.

5. The utmost candor and fairness should characterize the dealings of attorneys with the courts and with each other—knowingly citing as authority an overruled case, or treating a repealed statute as in existence—knowingly misquoting the language of a decision or text book—knowingly misquoting the contents of a paper, the testimony of a witness, or the language or argument of opposite counsel—offering evidence which it is known the court

must reject as illegal, to get it before the jury, under the guise of arguing its admissability—and all kindred practices—are deceits and evasions unworthy of attorneys.

Purposely concealing or withholding in the opening argument positions intended finally to be relied on, in order that opposite counsel may not discuss them, is unprofessional. Courts and juries look with disfavor on such practices, and are quick to suspect the weakness of the cause which has need to resort to them.

In the argument of demurrers, admissions of evidence, and other questions of law, counsel should refrain from "side-bar" remarks and sparring discourse to influence the jury or bystanders. Personal colloquies between counsel tend to delay, and promote unseemly wrangling, and ought to be discouraged.

6. Attorneys owe to the courts and the public whose business the courts transact, as well as to their own clients to be punctual in attendance on their causes; and whenever an attorney is late he should apologize or explain his absence.

7. One side must always lose the cause; and it is not wise, or respectful to the court, for attorneys to display temper because of an adverse ruling.

DUTIES OF ATTORNEYS TO EACH OTHER, TO CLIENTS AND THE PUBLIC.

8. An attorney should strive at all times, to uphold the honor, maintain the dignity, and to promote the usefulness of the profession; for it is so interwoven with the administration of justice that whatever redounds to the good of one advances the other; and the attorney thus discharges, not merely the obligation to his brothers, but a high duty to the State and his fellow-man.

9. An attorney should not speak slightingly or disparagingly of his profession, or pander in any way to unjust popular prejudices against it and he should scrupulously

refrain at all times, and in all relations of life, from availing himself of any prejudice or popular misconception against lawyers, in order to carry a point against a brother attorney.

10. Nothing has been more potential in creating and pandering to popular prejudice against lawyers as a class, and in withholding from the profession the full measure of public esteem and confidence which belong to the proper discharge of its duties than the false claim, often set up by the unscrupulous in defense of questionable transactions, that it is an attorney's duty to do everything to succeed in his client's cause.

An attorney "owes entire devotion to the interest of his client, warm zeal in the maintenance and defense of his cause, and the exertion of the utmost skill and ability," to the end that nothing may be taken or withheld from him, save by the rules of law, legally adopted. No sacrifice or peril, even to the loss of life itself can absolve from the fearless discharge of this duty. Nevertheless, it is steadfastly to be borne in mind that the great trust is to be performed within and not without the bounds of the law which creates it. The attorney's office does not destroy man's accountability to the Creator, or loosen the duty of obedience to law, and the obligation to his neighbor; and does not permit, much less demand, violation of law, or any manner of fraud or chicanery, for the client's sake.

11. Attorneys should fearlessly expose before the proper tribunals corrupt or dishonest conduct in the profession and there should never be any hesitancy in accepting employment against an attorney who has wronged his client.

12. An attorney appearing or continuing as private counsel in the prosecution for a crime of which he believes the accused is innocent, forswears himself. The State's attorney is criminal, if he presses for a conviction, when upon the evidence he believes the prisoner innocent. If the evidence is not plain enough to justify a noll pros.,

a public prosecutor should submit the case, with such comments are are pertinent, accompanied by a candid statement of his own doubts.

13. An attorney cannot reject the defense of a person accused of a criminal offense, because he knows or believes him guilty. It is his duty by all fair and honorable means to present such defenses as the law of the land permits, to the end that no one may be deprived of life or liberty, but by due process of law.

14. An attorney must decline in a civil cause to conduct a prosecution, when satisfied that the purpose is merely to harrass or injure the opposite party, or to work oppression and wrong.

15. It is bad practice for an attorney to communicate or argue privately with the judge as to the merits of his cause.

16. Newspaper advertisements, circulars, and business cards, tendering professional services to the general public are proper; but special solicitation of particular individuals to become clients ought to be avoided. Indirect advertisements for business, by furnishing or inspiring editorials or press notices, regarding causes in which the attorney takes part, the manner in which they are conducted, the importance of his positions, the magnitude of the interests involved, and all other like self-laudation, is of evil tendency, and wholly unprofessional.

17. Newspaper publications by an attorney as to the merits of pending or anticipated litigation, call forth discussion and reply from the opposite party, tend to prevent a fair trial in the courts, and otherwise prejudice the due administration of justice. It requires a strong case to justify such publications; and when proper, it is unprofessional to make them anonymously.

18. When an attorney is a witness for his client except as to formal matters, such as the attestation or custody of an instrument and the like, he should leave the trial of the cause to other counsel. Except when essential to the

ends of justice, an attorney should scrupulously avoid testifying in court on behalf of his client, as to many matter.

19. The same reasons which make it improper in general for an attorney to testify for his client, apply with greater force to assertions, sometimes made by counsel in argument, of personal belief in the client's innocence or the justice of his cause. If such assertions are habitually made they lose all force and subject the attorneys to falsehoods; while the failure to make them in particular cases will often be esteemed a tacit admission of belief of the client's guilt, or the weakness of his cause.

20. It is indecent to hunt up defects in titles and the like an dinform thereof, in order to be employed to bring suit; or to seek out a person supposed to have a cause of action, and endeavor to get a fee to litigate about it. Except where ties of blood, relationship or trust, make it an attorney's duty, it is unprofessional to volunteer advice to bring a lawsuit. Stirring up strife and litigation is forbidden by law, and disreputable in morals.

21. Communications and confidences between client and attorney are the property and secrets of the client, and cannot be divulged, except, at his instances; even the death of the client does not absolve the attorney from his obligation of secrecy.

22. The duty not to divulge the secrets of clients extends further than mere silence by the attorney, and forbids involving the client's interests, in the matters about which the confidence was reposed. When the secrets of confidence of a former client may be availed of or be material, in a subsequent suit, as the basis of any judgment which may injuriously affect his rights, the attorney can not appear in such cause, without the consent of his former client.

23. An attorney can never attack an instrument or paper drawn by him for an infirmity apparent on its face; nor for any other cause where confidence has been reposed as to the facts concerning it. Where the attorney

acted as a mere conveyancer and was not consulted as to the fact, and unknown to him, the transaction amounted to the violation of the criminal laws, he may assail it on that ground, in suits between third persons, or between parties to the instrument and strangers.

24. An attorney openly, and in his true character, may render purely professional services before committees, regarding proposed legislation, and in advocacy of claims before departments of the government, upon the same principles of ethics which justify his appearance before the courts; but it is immoral and illegal for an attorney so engaged to conceal his attorneyship, or to employ secret personal solicitations, or to use means other than those addressed to the reason and understanding, to influence action.

25. An attorney can never represent conflicting interests in the same suit or transaction, except by express consent of all concerned, with full knowledge of the facts. Even then such a position is embarrassing, and ought to be avoided. An attorney represents conflicting interests within the meaning of this rule, when it is his duty, in behalf of one of his clients, to contend for that which duty to other clients in the transaction requires him to oppose.

26. "It is not a desirable professional reputation to live and die with—that of a rough tongue, which makes a man to be sought out and retained to gratify the malevolent feeling of a suitor in hearing the other side well lashed and villified."

27. An attorney is under no obligation to minister to the malevolence or prejudices of a client in the trial or conduct of a cause. The client cannot be made the keeper of the attorney's conscience in professional matters. He cannot demand as a right that his attorney shall abuse the opposite party or indulge in offensive personalities. The attorney, under the solemnity of his oath, must determine for himself whether such a course is essential to the ends of justice and therefore justifiable.

28. Clients and not their attorneys are the litigants; and whatever may be the ill-feeling existing between clients, it is unprofessional for attorneys to partake of it in their conduct and demeanor to each other, or to suitors in the case.

29. In the conduct of litigation and the trial of causes, the attorneys should try the merits of the cause, and not try each other. It is not proper to allude to, or comment upon the personal history, or mental or physical peculiarities or idiosyncracies of opposite counsel. Personalities should always be avoided, and the utmost courtesy always extended to an honorable opponent.

30. As to incidental matters pending the trials, not affecting the merits of the cause, or working substantial prejudice to the rights of the client, such as forcing the opposite attorney to trial when he is under affliction or bereavement; forcing the trial on a particular day to the serious injury of the opposite attorney, when no harm will result from a trial at a different time; the time allowed for signing a bill of exceptions, crossing interrogatories, and the like; the attorney must be allowed to judge. No client has a right to demand that his attorney shall be illiberal in such matters, or that he should do anything therein repugnant to his own sense of honor and propriety; and if such a course is insisted on the attorney should retire from the cause.

31. Where an attorney has more than one regular client, the oldest client in the absence of some agreement should have the preference of retaining the attorney, as against his other clients in litigation between them.

32. The miscarriage to which justice is subject, and the uncertainty of predicting results, admonish attorneys to beware of bold and confident assurances to clients, especially where the employment depends upon the assurance, and the case is not plain.

33. Prompt preparation for trial, punctuality in answering letters and keeping engagements, are due from

an attorney to his client, and do much to strengthen their confidence and friendship.

34. An attorney is in honor bound to disclose to the client at the time of retainer, all the circumstances of his relation to the parties, or interest or connection with the controversy, which might justly influence the client in the selection of his attorney. He must decline to appear in any cause where his obligation or relations to the opposite parties will hinder or seriously embarrass the full and fearless discharge of all his duties.

35. An attorney should endeavor to obtain full knowledge of his client's cause before advising him, and is bound to give him a candid opinion of the merits and probable result of his cause. When the controversy will admit of it, he ought to seek to adjust it without litigation, if practicable.

36. When an attorney, during the existence of a relation, has lawfully made an agreement which binds the client, he cannot honorably refuse to give the opposite party evidence of the agreement, because of its subsequent discharge or instructions to that effect by his former client.

37. Money or other trust property coming into the possession of the attorney should be promptly reported, and necer commingled with his private property or used by him, except with the client's knowledge and consent.

38. Attorneys should, as far as possible, avoid becoming either borrowers or creditors of their clients; and they ought scrupulously to refrain from bargaining about the subject matter of their litigation, so long as the relation of attorney and client continues.

39. Natural solicitude of clients often prompts them to offer assistance of additional counsel. This should not be met, as it sometimes is, as evidence of want of confidence; but after advising frankly with the client, it should be left to his determination.

40. Important agreements affecting the rights of clients

should, as far as possible, be reduced to writing; but it is dishonorable to avoid performance of an agreement fairly made, because not reduced in writing, as required by rules of court.

41. An attorney should not ignore known customs or practice of the bar or of a particular court, even when the law permits, without giving opposing counsel timely noitce.

42. An attorney should not attempt to compromise with the opposite party, without notifying his client, if practicable.

43. When attorneys jointly associated in a cause cannot agree as to any matter vital to the interest of the client, the course to be pursued should be left to his determination. The client's decision should be cheerfully acquiesced in unless the nature of the differences makes it impracticable for the attorneys to co-operate heartily and effectively; in which event, it is his duty to ask to be discharged.

44. An attorney coming into a cause in which others are employed, should give notice as soon as practicable, and ask for a conference, and if the association is objectionable to the attorney already in the cause, the other attorney should decline to take part, unless the first attorney is relieved.

45. An attorney ought not to engage in discussion of argument about the merits of the case with the opposite party, without notice to his attorney.

46. Satisfactory relations between attorney and client are best preserved by a frank and explicit understanding at the outset, as to amount of the attorney's compensation; and when it is possible, this should always be argeed on in advance.

47. In general it is better to yield something to a client's dissatisfaction at the amount of the fee, though the sum be reasonable, than to engage in a law suit to justify it, which ought always to be avoided, except as a last resort to prevent imposition or fraud.

48. Men, as a rule, overestimate rather than under value the worth of their services, and attorneys in fixing their fees should avoid charges which unduly magnify the value of their advice and services, as well as those which practically belittle them. A client's ability to pay can never justify a charge for more than the service is worth; though his poverty may require a less charge in many instances, and sometimes none at all.

49. An attorney may charge a regular client, who entrusts him with all his business, less for a particular service than he would charge a casual client for like service. The element of uncertainty of compensation where a contingent fee is agreed on, justifies higher charges than where compensation is assured.

50. In fixing fees the following elements should be considered: 1st. The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to properly conduct the cause. 2nd. Whether the particular case will debar the attorney's appearance for others in cases likely to arise out of the transaction, and in which there is a reasonable expectation that the attorney would otherwise be employed; and herein of the loss of other business while employed in the particular case, and the antagonism with other clients growing out of the employment. 3rd. The customary charges of the bar for similar services. 4th. The real amount involved and the benefit resulting from the services. 5th. Whether the compensation was contingent or assured. 6th. Is the client a regular one, retaining the attorney in all his business? No one of these considerations is in itself controlling. They are mere guides in ascertaining what the servive was really worth; and in fixing the amount it should never be forgotten that the profession is a branch of the administration of justice and not a mere money-getting trade.

51. Contingent fees may be contracted for: but they

lead to many abuses, and certain compensation is to be preferred.

52. Casual and slight services should be rendered without charge by one attorney to another in his personal cause; but when the services goes beyond this, an attorney may be charged as other clients. Ordinary advice and services to the family of a deceased attorney should be rendered without charge in most instances; and where the circumstances make it proper to charge, the fees should generally be less than in cases of other clients.

53. Witnesses and suitors should be treated with fairness and kindness. When essential to the ends of justice to arraign their conduct or testimony, it should be done without villification or unnecessary harshness. Fierceness of manner and uncivil behavior can add nothing to the truthful dissection of a false witness's testimony and often rob deserved strictures of proper weight.

54. It is the duty of the court and its officers to provide for the comfort of jurors. Displaying special concern for their comfort and volunteering to ask favors for them, while they are present—such as frequent motions to adjourn trials, or take a recess, solely on the grounds of the jury's fatigue or hunger, and uncomfortableness of their seats, or the court room, and the like—should be avoided. Such intervention of attorneys, when proper, ought to be had privately with the court; whereby there will be no appearance of fawning upon the jury, nor ground for ill-feeling of the jury towards the court, or opposite counsel, if such requests are denied. For like reasons, one attorney should never ask another in the presence of the jury, to consent to its discharge or dispersion; and when such a request is made by the court, the attorneys, without indicating their preference, should ask to be heard after the jury withdraws.

55. An attorney ought never to converse privately with jurors about the case; and must avoid all unnecessary communication, even as to matters foreign to the cause, both

before and during the trial. Any other course, no matter how blameless the attorney's motives, gives color to the imputing of evil designs, and often leads to scandal in the administration of justice.

56. An attorney assigned as counsel for an indigent prisoner ought not to ask to be excused for any light cause, and should always be a friend to the defenseless and oppressed.

DATES AND PLACES OF MEETING

	Year.	Date.	Place.
	1879.	January 15, Organization	Montgomery
1.	1879.	December 4	Montgomery
2.	1880.	December 2	Montgomery
3.	1881.	December 28-30	Mobile
4.	1882.	November 20-21	Montgomery
5.	1883.	August 1-2	Blount Springs
6.	1884.	August 6-7	Birmingham
7.	1884.	December 3	Montgomery
8.	1885.	December 2-3	Montgomery
9.	1886.	December 1-2	Montgomery
10.	1887.	December 14-15	Montgomery
11.	1888.	December 19-20	Montgomery
12.	1889.	July 31 and August 1	Huntsville
13.	1890.	August 6-7	Anniston
14.	1891.	July 8-9	Mobile
15.	1892.	July 6-7	Montgomery
16.	1893.	July 5-6	Montgomery
17.	1894.	July 10-11	Montgomery
18.	1895.	July 10-11	Montgomery
19.	1896.	August 5-6	Birmingham
20.	1897.	June 30 and July 1	Montgomery
21.	1898.	June 17-18	Montgomery
22.	1899.	June 16-17	Montgomery
23.	1900.	June 15-16	Montgomery
24.	1901.	June 28-29	Montgomery
25.	1902.	July 4-5	Huntsville
26.	1903.	June 19-20	Montgomery
27.	1904.	July 8-9	Montgomery
28.	1905.	June 30 ,and July 1	Montgomery
29.	1906.	July 6-7	Anniston
30.	1907.	June 28-29	Montgomery
31.	1908.	July 1-2	Montgomery

32.	1909.	July 8-9	Birmingham
33.	1910.	July 13-14	Mobile
34.	1911.	July 7-8	Montgomery
35.	1912.	July 12-13	Montgomery
36.	1913.	July 11-12	Mobile
37.	1914.	July 10-11	Montgomery
38.	1915.	July 9-10	Montgomery
39.	1916.	July 14-15	New Decatur
40.	1917.	July 12, 13, 14	Birmingham
41.	1918.	July 12-13	Montgomery
42.	1919.	July 4-5	Selma

LIST OF FORMER PRESIDENTS

WALTER L. BRAGG	1879-	Montgomery
E. W. PETTUS	1879-80	Dallas
JOHN LITTLE SMITH	1880-81	Mobile
EDWARD A. O'NEAL	1881-82	Lauderdale
M. L. STANSEL	1882-83	Pickens
HENRY C. SEMPLE	1883-84	Montgo
(To Aug. 7, 1884.)		
N. H. R. DAWSON	1884-	Dallas
(Aug. 7, to Dec. 3.)		
W. H. BARNES	1884-85	Lee
WILLIAM M. BROOKS	1885-86	Dallas
H. C. TOMPKINS	1886-87	Montgomery
W. F. FOSTER	1887-88	Macon
MILTON HUMES	1888-89	Madison
THOS. H. WATTS	1889-90	Montgomery
HANNIS TAYLOR	1890-91	Mobile
A. B. McEACHIN	1891-92	Tuscaloosa
A. C. HARGROVE	1892-93	Tuscaloosa
J. R. DOWDELL	1893-94	Chambers
JAMES E. WEBB	1894-95	Hale
DANIEL S. TROY	1895-96	Montgomery
RICHARD H. CLARKE	1896-97	Mobile
JNO. P. TILLMAN	1897-98	Jefferson
JNO. D. ROQUEMORE	1898-99	Montgomery
JOS. J. WILLETT	1899-1900	Calhoun
THOMAS G. JONES	1900-01	Montgomery
EDWARD L. RUSSELL	1902-03	Mobile
LAWRENCE COOPER	1902-03	Madison
EDW. de GRAFFENREID	1903-04	Hale
THOMAS R. ROULHAC	1904-05	Colbert
GEORGE P. HARRISON	1905-06	Lee
FRED. G. BROMBERG	1906-07	Mobile
H. S. D. MALLORY	1907-08	Dallas
WM. S. THORINGTON	1908-09	Montgomery
EMMET O'NEAL	1909-10	Lauderdale
JOHN LONDON	1910-11	Jefferson
JOHN PELHAM	1911-12	Calhoun
FRANK S. WHITE	1912-13	Jefferson
THOMAS M. STEVENS	1913-14	Mobile
RAY RUSHTON	1914-15	Montgomery

CHAS. S. McDOWELL, JR.....1915-16.....Barbour
JOSEPH H. NATHAN.....1916-17.....Colbert
HENRY UPSON SIMS.....1917-18.....Jefferson
J. MANLY FOSTER.....1918-19.....Tuscaloosa

(From the death of Col. Troy, September 27, 1895, General Richard C. Jones, First Vice President, acted as President and made . Address at the meeting of the Association.)

LIST OF FORMER VICE-PRESIDENTS

1879	Peter Hamilton	Mobile
	L. P. Walker	Madison
	E. W. Pettus	Dallas
	H. M. Somerville	Tuscaloosa
	J. L. Pugh	Barbour
1879-80	Jno. T. Heflin	Talladega
	Wm. G. Jones	Mobile
	H. M. Somerville	Tuscaloosa
	Thos. H. Watts	Montgomery
	H. D. Clayton	Barbour
1880-81	David Clopton	Montgomery
	Jno. M. McKleroy	Barbour
	Jno. G .Harris	Sumter
	Milton Humes	Madison
	Louis Wyeth	Marshall
1881-82	M. L. Stansel	Pickens
	H. D. Clayton	Barbour
	H. T. Toulmin	Mobile
	Thos. H. Watts	Montgomery
	R. H. Abercrombie	Macon
1882-83	Wm. H. Barnes	Lee
	H. C. Jones	Lauderdale
	Hannis Taylor	Mobile
	Jno. A. Foster	Barbour
	N. H. R. Dawson	Dallas
1883-84	N. H. R. Dawson	Dallas
	R. O. Pickett	Lauderdale
	Jno. M. McKleroy	Barbour
	Gaylord B. Clark	Mobile
	Jno. M. Martin	Tuscaloosa
1884	Gaylor B. Clark	Mobile
	Geo. P. Harrison	Lee
	M. T. Porter	Jefferson
	Daniel Coleman	Madison
	Jno. W. Bush	Jefferson

1884-85	Peter Hamilton	Mobile
	D. S. Troy	Montgomery
	A. B. McEachin	Tuscaloosa
	R. T. Simpson	Lauderdale
	S. W. John	Dallas
1885-86	Thos. Seay	Hale
	C. G. Wagner	Shelby
	J. D. Gardner	Pike
	H. Austill	Mobile
	W. F. Foster	Macon
1886-87	Hannis Taylor	Mobile
	Wm. H. Denson	Etowah
	S. W. John	Dallas
	G. W. Hewitt	Jefferson
	J. L. Peters	Shelby
1887-88	G. W. Hewitt	Jefferson
	A. C. Hargrove	Tuscaloosa
	Jno. B. Knox	Calhoun
	F. G. Bromberg	Mobile
	Reuben Chapman	Sumter
1888-89	Hannis Taylor	Mobile
	Thos. G. Jones	Montgomery
	T. B. Roy	Dallas
	Thos. R. Roulhac	Colbert
	John M. Martin	Tuscaloosa
1889-90	A. B. McEachin	Tuscaloosa
	E. L. Russell	Mobile
	Jno. D. Brandon	Madison
	J. F. Stallings	Butler
	H. C. Jones	Lauderdale
1890-91	A. B. McEachin	Tuscaloosa
	J. M. McKleroy	Calhoun
	Jno. C. Anderson	Marengo
	D. D. Shelby	Madison
	J. T. Holtzclaw	Montgomery
1891-92	Thos. Seay	Hale
	D. P. Bestor	Mobile
	E. P. Morrissett	Montgomery
	A. E. Goodhue	Etowah
	Geo. W. Peach	Barbour

1892-93	J. R. Dowdell	Chambers
	E. L. Russell	Mobile
	C. C. Harris	Morgan
	S. A. Wood	Montgomery
	F. L. Pettus	Dallas
1893-94	Jas. E. Webb	Jefferson
	Thos. R. Roulhac	Colbert
	Jno. D. Roquemore	Montgomery
	J. J. Willett	Calhoun
	D. P. Bestor	Mobile
1894-95	D. T. Blakey	Montgomery
	H. S. D. Mallory	Dallas
	Harry Pillans	Mobile
	George P. Jones	Lauderdale
	A. S. Van deGraaff	Tuscaloosa
1895-96	R. C. Jones	Wilcox
	G. Y. Overall	Mobile
	W. L. Clay	Madison
	S. H. Dent, Jr.	Barbour
	S. D. Weakley	Jefferson
1896-97	Geo. P. Jones	Lauderdale
	Wm. A. Walker	Jefferson
	George W. Peach	Barbour
	W. L. Martin	Jackson
	J. J. Mayfield	Tuscaloosa
1897-98	Geo. P. Harrison	Lee
	Thos. R. Roulhac	Colbert
	W. H. Tayloe	Perry
	E. A. Graham	Montgomery
	A. A. Evans	Barbour
1898-99	J. J. Willett	Calhoun
	E. K. Campbell	Jefferson
	Harry Pillans	Mobile
	J. A. W. Smith	Jefferson
	S. A. Wood	Tuscaloosa
1899-1900	S. D. Weakley	Jefferson
	E. B. Almon	Colbert
	Edw. de Graffenreid	Hale
	F. G. Bromberg	Mobile
	J. B. Duke	Lee

1900-01	Jno. W. Tomlinson	Jefferson
	Lawrence Cooper	Madison
	J. J. Mayfield	Tuscaloosa
	D. P. Bestor	Mobile
	W. L. Parks	Pike
1901-02	James Weatherly	Jefferson
	A. H. Alston	Barbour
	Edw. de Graffenreid	Hale
	J. T. Kirk	Colbert
	P. A. McDaniel	Henry
1902-03	Edw. de Graffenreid	Hale
	W. L. Martin	Montgomery
	S. A. Wood	Montgomery
	L. E. Jeffries	Dallas
	C. C. Harris	Morgan
1903-04	Jno. B. Knox	Calhoun
	Horace Stringfellow	Montgomery
	J. M. Foster	Tuscaloosa
	W. B. Bankhead	Madison
	J. W. Gray	Mobile
1904-05	George P. Harrison	Lee
	D. P. Bestor	Mobile
	W. S. Thorington	Montgomery
	Phares Coleman	Montgomery
	C. R. Bricken	Crenshaw
1905-06	Fredk. G. Bromberg	Mobile
	Emmet O'Neal	Lauderdale
	S. D. Weakley	Jefferson
	W. W. Callahan	Morgan
	Chas. P. Jones	Montgomery
1906-07	H. S. D. Mallory	Dallas
	A. D. Sayre	Montgomery
	J. H. Nathan	Colbert
	W. W. Whiteside	Calhoun
	Henry Fitts	Jefferson
1907-08	Mac A. Smith	Autauga
	W. O. Mulkey	Geneva
	W. T. Sanders	Limestone
	J. A. W. Smith	Jefferson
	Tipton Mullins	Chilton

1908-09	Emmet O'Neal	Lauderdale
	J. H. Nathan	Colbert
	W. P. Acker	Calhoun
	D. P. Bestor, Jr.	Mobile
	W. M. Lackey	Taliapoosa
1909-10	John London	Jefferson
	W. M. Lackey	Tallapoosa
	E. W. Faith	Mobile
	Daniel Partridge, Jr.	Dallas
	McLane Tilton, Jr.	St. Clair
1910-11	Lawrence Cooper	Madison
	W. P. Acker	Calhoun
	T. M. Stevens	Mobile
	B. B. Bridges	Tallapoosa
	C. B. Verner	Tuscaloosa
1911-12	R. F. Ligon	Montgomery
	Paul Speake	Madison
	Thos. S. Fraser	Bullock
	Jno. E. Mitchell	Mobile
	W. W. Lavender	Bibb
1912-13	Virgil Bouldin	Jackson
	W .W. Pearson	Montgomery
	J. K. Dixon	Talladega
	W. L. Pitts	Perry
	W. E. Gibson	Jefferson
1913-14	Joseph H. Nathan	Colbert
	W. C. Fitts	Jefferson
	W. B. Oliver	Tuscaloosa
	E. J. Garrison	Clay
	C. S. McDowell, Jr.	Barbour
1914-15	Joseph H. Nathan	Colbert
	W. C. Fitts	Jefferson
	C. S. McDowell, Jr.	Barbour
	N. D. Godbold	Wilcox
	J. T. Stokely	Jefferson
1915-16	Joseph H. Nathan	Colbert
	J. T. Stokely	Jefferson
	R. T. Ervin	Mobile
	N. D. Godbold	Wilcox
	J. B. Barnett	Monroe

1916-17	J. T. Stokely	Jefferson
	C. P. Beddow	Jefferson
	Henry F. Reese	Dallas
	J. Manly Foster	Tuscaloosa
	Harry T. Smith	Mobile
1917-18	R. C. Hunt	DeKalb
	R. T. Ervin	Mobile
	W. W. Callahan	Morgan
	J. W. Lapsley	Dallas
	J. A. Carnley	Coffee
1918-19	J. T. Stokely	Jefferson
	R. C. Hunt	DeKalb
	Ormond Somerville	Tuscaloosa
	G. R. Harsh	Jefferson
	W. O. Mulkey	Geneva

SECRETARY AND TREASURER,
ALEXANDER TROY.
1879-1919.

DECEASED HONORARY MEMBERS

Jno. A. Campbell	Louisiana
Thomas J. Semmes	Louisiana
Geo. W. Stone	Alabama
H. M. Somerville	New York
David Clopton	Alabama
W. P. Webb	Alabama
H. D. Clayton, Sr.	Alabama
Seymour D. Thompson	Missouri
Jno. Randolph Tucker	Virginia
Jno. F. Dillon	New York
George Hoadly	New York
John Bruce	Alabama
James B. Head	Alabama
Sterling B. Toney	Colorado
Jon. Haralson	Alabama
S. M. Meek	Mississippi
D. D. Shelby	Alabama
J. R. Lamar	Georgia
J. M. Falkner	Alabama
Edward M. Shepard	New York
R. T. Simpson	Alabama
F. H. Busbee	North Carolina
Hiliary A. Herbert	Alabama
John W. Judd	Tennessee

LIST OF DECEASED MEMBERS

Little, Wm. G. ---------1879
Woolf, H. A.----------1879
Northington, Wm. H.---1880
Lockett, Powhatan ---1881
Boyles, Wm. ---------1882
Padgett, Jno. A.--------1882
Stewart, Geo. N. ------1882
Enochs, John ---------1883
Jones, Wm. G. --------1883
Macartney, Thos. N.---1883
Price, Thos. H. -------1883
Buell, David ---------1884
Croom, Stephens ------1884
Fitzpatrick, E. J. ------1884
Peyton, Bernard ------1885
Gordon, Geo. B. ------1886
McIver, W. C. --------1886
St. Paul, Henry ------1886
Barnes, Wm. H. ------1887
Bond, James ---------1887
Sayre, P. T. ----------1887
Hamilton, Peter ------1888
Heflin, John T. --------1888
Banaugh, James ------1889
O'Neal, E. A. ---------1890
Smith, John Little ----1890
Sterrett, R. H. -------1890
Stone, Lewis M. ------1890
Bragg, W. L. --------1891
Brandon, Jno. D. ------1891
Day, L. W. ----------1891
Long, J. E. ----------1891
Patton, C. H. --------1891
Smith, David D. ------1891
Whitfield, J. F. -------1891
Williamson ,R. M. ----1891
Wood, S. A. M.--------1891
Chilton, Wm. P. ------1892
Dean, L. L. ----------1892
Clayton, H. D. --------1892
Watts, Thos. H., Sr.---1892
Clark, Gaylord B. ----1893
Fitzpatrick, Benj. -----1893
Foster, Jno. A. -------1893
Holtzclaw, Jas. T. ----1893
McKleroy, Jno. M. ----1894
Roper, J. F. ----------1894
Semple, H. C. --------1894
Shepherd, Jno. W. ----1894
Stone, Geo. W. -------1894
Dawson, N. H. R. -----1895
Hargrove, A. C. ------1895
Hewitt, G. W. --------1895
Troy, Daniel S. -------1895
Wagner, C. G. --------1895
Welch, Theo ---------1895
Wilson, Henry --------1895
Clark, Frank B. -------1896
Overall, G. Y. --------1896
Seay, Thomas --------1896
Arnold, J. M. ---------1897
Gamble, John --------1897
Little, Jas. H. --------1897
Smith, Lester C. ------1897
White, J. M. ----------1897
Milligan, M. E. -------1898
Tompkins, H. C. ------1898
Foster, J. W. ---------1899
Hill, Walton W. ------1899
Roquemore, John D. --1900
Brickell, R. C. --------1900
Fitzpatrick, J. M. -----1900
Foster, Wilbur F. -----1900
Speake, H. C. ---------1900
Brothers, S. D. G.-----1901
Pettus, F. L. ----------1901
Samford, W. J. -------1901
Caldwell, John H. ----1902
Blakey, David T. ------1902
Lomax, Tennent ------1902
Jones, R. C. ----------1903
Bibb, W. C. ----------1903
Stansel, M. L. --------1903
Lowe, R. H. ---------1903

Bullock, W. I. ---------1904
Graham, E. A. ---------1904
Massie, P. C. ----------1904
Winter, Jno. G. -------1904
Wood, J. R. ----------1904
Dill, Henry R. ---------1905
Hipp, R. L. ----------1905
Clarke, R. H. ----------1906
Coleman, Daniel -------1906
Gray, Jas. W. ---------1906
Kirkland, W. W.-------1906
McClellan, Thos. N. --1906
Martin, Wm. L. -------1907
Roulhac, Thos. R. ----1907
Evans, Geo. A. ---------1908
London, Alex T. -------1908
Wiley, A. A. ----------1908
Humes, Milton --------1908
Pearson, R. H. ---------1909
Miller, J. N. ----------1910
Richardson, J. C. -------1910
Bestor, D. P., Sr.-------1911
Russell, E. L. ----------1911
Sanders, J. F. ---------1911
Smith, J. A. W.---------1911
Tomlinson, J. W. -----1911
Austill, H. ------------1912
Whitson, C. C. --------1912
Granade, Jos. C. -------1913
LeGrand, M. P. -------1913
Screws, W. W. ---------1913
Smith, Jno. V. ---------1913
Boone, B. B. ----------1914
Harmon, R. L. ---------1914
Jones, Thos. G. --------1914
Mullins, Tipton --------1914
Barnett, A. E. ---------1915
Smith, Mac A. ---------1915
Thorington, W. S. ----1915
Chilton, J. M. ---------1915
Crumpton, W. C. -------1915
Ferguson, F. S. --------1915
Partridge, Danl. Jr.----1915
Letcher, J. T. ----------1916
Pearson, W. W. -------1916
Pleasants, S. S. --------1916
Thach, H. C. ----------1916
Jones, Geo. P. ---------1916
Watts, Edw. S. --------1916
Golson, H. R. ---------1917
Percy, Walker ---------1917
Pitts, W. L. ----------1917
Pelham, John ---------1917
Leadbetter, L. C.-------1917
Torrey, Chas. J. -------1917
Andrews, W. E. -------1918
A. H. Alston----------1918
P. H. Pitts ------------1918
Lull, F. W. ------------1918
Parker, G. H. ---------1918
Stern, Philip H. -------1918
Whiteside, W. W. ----1918
W. N. Trimble --------1918
R. C. Hunt ------------1919
F. M. Lowe ----------1919
Gaston Gunter --------1919
John H. Miller --------1919

ANNUAL ADDRESSES

Year.	*Name.*	*Subject.*
1883.	GEORGE HOADLY	The True Limits of Municipal Law in a Democracy.
1884.	JOHN A. CAMPBELL	Alabama: A review of her condition at different stages of existence.
1887.	JNO. F. DILLON	A Century of American Law.
1888.	JOHN RANDOLPH TUCKER	The Common Law as the germ of Civil Liberty and of Progressive Jurisprudence.
1889.	GEORGE W. STONE	Judicial Reform.
1890.	SEYMOUR D. THOMPSON	The Federal Judiciary.
1893.	STERLING B. TONEY	The Rule requiring Unanimity Verdicts in Civil Cases should be abrogated.
1894.	THOMAS J. SEMMES	Influence of the Civil on the Common Law.
1895.	SAMUEL B. MEEK	The Power and Influence of the Bar.
1896.	ALEX. C. KING	The Growth of the Constitution.
1899.	H. M. SOMERVILLE	Trial of the Alabama Supreme Court Judges in in 1829. The last of a series of Political Assaults on the Independence of the Judiciary in the last Century.
1900.	WILLIAM J. CURTIS	James Kent, the Father of American Jurisprudence.

Year.	*Name.*	*Subject.*
1901.	HILIARY A. HERBERT	The Duties and Responsibilities of the American Lawyer in Twentieth Century.
1902.	JOSEPH R. LAMAR	The Work and Position of American Courts.
1903.	EDWARD M. SHEPARD	The Promise of the Isthmian Canal.
1904.	FABIUS H. BUSBEE	Duty of Southern lawyers towards the Negro Question.
1905.	JOHN W. JUDD	The Fourteenth Amendment—Its History and Evolution.
1906.	JUDSON HARMON	Independence of the Judiciary.
1908.	ALEX. P. HUMPHREY	The Supreme Court and the Civil War.
1909.	WILLIAM J. CURTIS	The History of the Purchase by the United States of the Panama Canal, the Manner of Payment, and the Distribution of the Proceeds of Sale.
1910.	PETER W. MELDRIM	Aaron Burr.
1911.	W. A. BLOUNT	The Past, Present and Future Status of Employers and Employees.
1912.	ALFRED P. THOM	The Pending Revolution.
1913.	EDWARD T. SANFORD	The Beginning of the Federal Judiciary.
1914.	ROBERT C. ALSTON	Andrew Johnson, President of the United States. His part in the reconstruction of the South and his impeachment.

Year.	*Name.*	*Subject.*
1915.	HANNIS TAYLOR	Our Rights and Duties as a Neutral Nation.
1916.	WM. M. LILE	Some Views on the Rule of *Stare Decisis.*
1917.	H. G. CONNOR	John Archibald Campbell.
1918.	T. J. O'DONNELL	The Lawyer in War.
1919.	EMMET O'NEAL	Susan B. Anthony Amendment.

PAPERS READ

Year.	*Name.*	*Subject.*
1879.	GEO. F. MOORE	Code Pleading and Practice in Alabama.
1879.	JOHN LITTLE SMITH	The Roman Bar.
1880.	M. L. STANSEL	Champerty.
1880.	GEO. F. MOORE	Judicial Delay.
1881.	HANNIS TAYLOR	Inter-State Code Commission.
1881.	JOHN M. MCKLEROY	Equity Jurisdiction and Practice.
1881.	H. G. MCCALL	The Unpopularity of the Bar.
1882.	DAVID BUELL	Ought the Chancery Court to be abolished?
1882.	WM. P. CHILTON	Mobocracy. Its Remedy: The Maintenance of Law and Judicial Authority.
1882.	JOHN LITTLE SMITH	The Trial of Clodius.
1882.	HENRY ST. PAUL	Family Relations.
1882.	JOHN D. GARDNER	Shall We Have a Bankrupt Law?
1882.	L. A. SHAVER	Trial by Jury.
1882.	E. P. MORRISETT	The Alienatdin of Homesteads in Alabama.
1882.	A. B. MCEACHIN	Our Code and Reports.
1883.	STEPHENS CROOM	The Lien of Judgments.
1883.	HILIARY A. HERBERT	The Supreme Court of the United States as a Factor in Federal Politics.

Year.	*Name.*	*Subject.*
1883.	Jno. A. Foster	The Sale of Land for Division
1884.	H. C. Tompkins	Necessary Reformation in the Administration of the Criminal Law.
1884.	R. W. Walker	Separate Courts of Chancery.
1884.	Daniel Coleman	Reform in the Administration of the Criminal Law.
1884.	Henry D. Clayton, Jr.	Defects of and abuses in the Administration of the Criminal Law.
1884.	Daniel S. Troy	The Moral Responsibility of the Legal Profession for the Administration of Public Justice.
1884.	Harry Pillans	Limitations upon the Quarantine Power.
1884.	F. S. Ferguson	Mixed Pickles.
1884.	James Weatherly	Judicial Delays in Alabama.
1884.	Alex T. London	The Code of Civil Procedure as Administered in North Carolina.
1884.	W. R. Houghton	Some Legal aspects of the Negro Question.
1885.	W. G. Hutcheson	An International Court.
1885.	Sam Will John	Local Legislation.
1885.	H. Austill	The Statutory Estates of Married Women in Alabama.
1886.	David T. Blakey	The Jurisdiction and practice of The Probate Court in Alabama.

Year.	*Name.*	*Subject.*
1886.	HANNIS TAYLOR	The Inefficiency of Congress as a Legislative Body.
1887.	HORACE STRINGFELLOW	Lnter-state Commerce Law.
1887.	A. C. HARGROVE	Legal Education and Admission to the Bar.
1887.	JOS. S. WINTER	The Unconstiutionality of the Statute authorizing the State to sue out Attachments without affidavit made or bond given.
1888.	Z. M. P. INGE	Lawyers in Politics.
1888.	THOS. H. WATTS, JR.	To what Liabilities do the Exemption Laws extend?
1889.	AMOS E. GOODHUE	The Ideal Lawyer.
1889.	ALEX T. LONDON	Some Suggestions for Reform.
1890.	A. B. MCEACHIN	The Lawyer in Politics.
1890.	D. P. BESTOR, SR.	The Disinclination of Superior men to engage in Politics.
1890.	E. L. RUSSELL	The Supreme Court and Interstate Commerce.
1890.	GEO F. MOORE	The Justice of the Peace.
1691.	W. R. NELSON	Business Methods for Lawyers.
1892.	JOHN A. FOSTER	Politics on the Bench.
1892.	SAM WILL JOHN	The Impending Crisis — Our Duty.
1892.	THOS. R. ROULHAC	The Necessity for Statutory Regulation of Adverse Possession.

Year.	*Name.*	*Subject.*
1893.	J. J. WILLETT	The Case Lawyer.
1893.	S. H. DENT, JR.	Common Law System of Pleading.
1893.	JOHN C. EYSTER	Statutory Changes in Commercial Law.
1893.	EDW. DE GRAFFENREID	The influence of Rome upon the Common Law of England
1894.	JOHN W. TOMLINSON	Why Pleadings should be verified by affidavit.
1894.	S. D. WEAKLEY	Labor and the Law.
1894.	DAVID T. BLAKEY	Electricity in the Law.
1895.	JOHN LONDON	Exemptions from Execution.
1895.	W. L. CHAMBERS	Our International Relations.
1896.	C. A. MOUNTJOY	The Supreme Court.
1896.	JOHN V. SMITH	The Age of Consent in Alabama.
1896.	H. C. TOMPKINS	Judah Phillips Benjamin.
1897.	R. L. HARMON	The Lawyer and the Shyster.
1898.	PHILLIP H. STERN	Criminal Law and the Law of Criminals.
1898.	J. M. DAVISON	Our Judiciary and Politics.
1899.	JNO. C. ANDERSON	The Exemption Laws of Alabama.
1899.	WM. M. BLAKEY	Practical workings of the Bankrupt Law.

Year.	*Name.*	*Subject.*
1900.	Wm. H. Thomas	The Birth and Growth of the Constitution of Alabama.
1900.	Virgil Bouldin	Some Suggestions on the Revision of our State Constitution.
1900.	Arthur B. Foster	Limit of Legislative Control over Private Property affected with a Public interest.
1900.	Thos. R. Roulhac	The Possession and Government of Colonies will be Fatal to the Republic.
1901.	Francis G. Caffey	The Annexation of West Florida to Alabama.
1901.	Lawrence Cooper	The Makers of the Law.
1901.	Thos. M. Owen	Ephraim Kirby, First Superior Court Judge in what is now Alabama.
1902.	W. T. Sanders	Legislation touching matters under the new Constitution.
1902.	Sam Will John	Two Lawyers—Two Chief Justices.
1902.	Daniel Coleman	Jury Reform.
1903.	W. L. Martin	The British Constitution.
1903.	Paul Speake	Wantonness in Personal Injury Cases.
1903.	Edw. de Graffenreid	The Effect of Slavery upon the Constitution and Laws of the United States and of the State of Alabama.
1904.	C. P. McIntyre	Civil Procedure.

Year.	*Name.*	*Subject.*
1904.	H. E. Gipson	Delay of the Law as an excuse for Lynching.
1904.	Sam Will John	A Just and Fearless Judge—John Moore.
1904.	Alexander Troy	Retrospect.
1904.	F. M. Purifoy	Growth and Development of the scope and Power of Trust Companies.
1905.	W. L. Chambers	The Ministry of the Lawyer.
1905.	Lawrence Cooper	Our Railroad Commission .
1905.	Armistead Brown	Alabama's New Corporation Law.
1905.	Emmet O'Neal	The Power of Congress to reduce Representation in the House of Representatives and the Electoral College.
1905.	Thos. G. Jones	Has the Citizen of the United States in the Custody of the State's officers, upon accusation of Crime against its Laws any Immunity or right which may be protected by the United States against Mob Violence.
1906.	Daniel Partridge, Jr.	The Rationale of Interference by Injunction with Criminal Prosecution under void Municipal Ordinances.
1906.	Henry Fitts	Trial Courts in Alabama.
1907.	Armstead Brown	The Province of Law.
1907.	W. S. Thorington	The Statute of Amendments as affecting the Common Law Rule as to Departure, and the Doctrine of Relation.

Year.	*Name.*	*Subject.*
1907.	H. E. Gipson	The Caricaturists as a Civil Power.
1908.	Henry Upson Sims	Desirable changes in our Chancery Practice after the New Code of 1907.
1908.	B. B. Bridges	Judicial Procedure and Administration of the Criminal Law.
1908.	Emmet O'Neal	Election of United States Senators by the People.
1908.	H. M. Somerville	Witch Law and Witch Tribunals of the Seventeenth Century.
1908.	W. S. Thorington	Amendment of Complaints, and the Doctrine of Relation under the Laws of Alabama.
1908.	Wm. C. Fitts	Telephoning Telegraph Messages.
1909.	E. W. Faith	Buying a Piece of Land.
1909.	R. C. Brickell	Common Law Marriages.
1909.	Emmet O'Neal	Quadrennial Sessions of the Legislature.
1909.	S. L. Field	The Majesty of the Law.
1910.	Sam Will John	Jury Law.
1910.	McLane Tilton, Jr.	The Law, Lawyers, and Lawmaking to the Business Man.
1910.	C. B. Verner	Administration of the Criminal Laws of Alabama.

Year.	*Name.*	*Subject.*
1910.	THOS. M. STEVENS	The Alabama Supreme Court is overworked and should have relief.
1911.	SAM WILL JOHN	Our imperative Duty to procure a Judicious Reform of the Judicial Procedure in the Courts of Alabama.
1911.	W. W. LAVENDER	Judiciary Recall.
1911.	L. J. BUGG	Direct Legislation and its Operation in America.
1911.	W. W. WHITESIDE	Some Mistakes by Lawyers and Judges,
1911.	C. C. WHITSON	The Subordination of the Judge to the Jury.
1911.	RAY RUSHTON	Handling the Facts.
1912.	VIRGIL BOULDIN	Law and Procedure.
1912.	CLEMENT R. WOOD	The Breakdown of the Law.
1912.	J. T. LETCHER	Reversals in Criminal Cases.
1912.	W. H. MITCHELL	The Relation of the Bar to the State's Law School.
1912.	EMMET O'NEAL	Law Reform.
1912.	LAWRENCE COOPER	Stop, Look and Listen, as applied to popular agitation.
1912.	WM. H. THOMAS	A Recent Industrial Decision.
1913.	J. T. STOKELY	Compensation for personal injuries to employees.

Year.	*Name.*	*Subject.*
1913.	J. K. Dixon	What should be the Requirements in this State for a person to be allowed to practice law?
1913.	Jno. E. Mitchell	The Law's Delay v. the Lawyer's Delay.
1914.	W. R. Walker	Legislative Power to require roads worked without compensation.
1914.	Wm. M. Blakey	Some of the pernicious influences of the Common Law yet existing in our Law of inheritance.
1914.	Sam Will John	Do the Bench and Bar really desire a genuine reformation of the Practice and Procedure in our Courts?
1915.	J. T. Denson	The Doctrine of Comparative Negligence.
1915.	E. G. Rickarby	Some Suggestions as to Practice from Admiralty Procedure.
1915.	Francis G. Caffey	The United States Cotton Futures Act.
1915.	Samuel B. Stern	Decisions of Courts of Last Resort based on other than Fundamental Principles.
1916.	Harry T. Smith	Political Judiciaries.
1916.	LeRoy P. Percy	Workmen's Compensation Act.
1916.	H. A. Bradshaw	The Business of Making Laws.
1916.	E. W. Godbey	The Legal Reform that is Worth While.

Year.	*Name.*	*Subject.*
1917.	W. M. Williams	Applicability of the Inter-State Commerce Act to Telegraph Companies.
1917.	W. H. Armbrecht	The Duty of the Older Members of the Bar to the Younger Members of the Bar.
1917.	M. M. Ullman	Some of the Needs of Alabama.
1917.	Emmet O'Neal	The State Constitution.
1917.	Sam Will John	The Necessity of a Workman's man's Compensation Law and a Law for Registration and Insurance of Land Titles.
1918.	Edw. de Graffenreid	Some Judges and Lawyers I have known.
1918.	John B. Knox	The Rhea Letter.
1918.	S. C. Jenkins	The French Revolution as a lesson in Government, with an Historical Review of the cause leading to it.
1919.	John W. Lapsley	Some Needed Judicial and Legislative Reforms as seen by a Young Lawyer.
1919.	Sam C. Jenkins	Liberty vs. the Heresy of Propaganda.
1919.	A. C. Lee	Some Observations on Modern Tendencies.

NECROLOGY OF THE ALABAMA STATE BAR ASSOCIATION, 1918-1919.

By THOMAS M. OWEN, Director.
Alabama State Department of Archives and History.

AUGUSTUS HOLMES ALSTON, supernumerary circuit judge died October 25, 1918, at his home in Clayton, Barbour County. He was born in Bibb County, Ga., November 17, 1847. His parents were Willis and Elizabeth Alston, natives of Georgia and South Carolina respectively, and of English descent. Willis Alston born in Hancock County, Ga., in 1806, was married at Georgetown, S. C., in 1823, to Elizabeth Howard, and died in Texas in 1849. Mrs. Alston was the daughter of Rev. John Howard, of North Carolina, for many years a distinguished minister of the Methodist church. She died near Decatur, Ga., in January, 1866.

Judge Alston's paternal grandfather was Robert Alston, who removed at an early date from Halifax, N. C., to Hancock County, Ga., thence to Florida, but subsequently returned to Georgia, and died at Thomasville in that State.

While a native of Georgia, Judge Alston came to Alabama immediately after the war. He served a short time as a member of Co. "C," 9th Tennessee Cavalry Regiment, Gen. Basil Duke's Brigade, Gen. John H. Morgan's command; was captured at Mt. Sterling, Ky., and remained a prisoner of war at Rock Island, Ill., until the close of the war.

He read law under Cato and Baker, one of the leading law firms of Eufaula; and entered upon the practice. He served two terms as judge of probate of Barbour County, first by appointment, and was afterwards elected by a very large majority. He served as chairman of the Democratic executive committee of the 3d Congressional district, and as chairman of the Democratic executive committee of Barbour County. He was a Mason, and a

member of the Methodist Episcopal Church, South. When the office of supernumerary judge was created in 1899 he was elected by the Legislature to fill the office; in 1904, he was, without opposition, re-elected by the people of the State at large, and again in 1910, and was holding this position at his death. No man in the State more nearly enjoyed the full confidence of all the people. He was a fearless advocate, and a wise and painstaking judge.

The wife of Judge Alston was Annah Mariah Ott, to whom he was married December 17, 1867. She was the daughter of Edward S. and Amanda (Alston) Ott. Judge and Mrs. Alston had a large family of children, creditable alike to them and to their State. They are as follows: 1. Augusta Alston married Lawrence Haygood Lee, now and for many years the reporter of the Supreme Court of Alabama; 2. Edward Ott, a business man of Denver, Colo., married Marion LeSeur; 3. Robert Cotton, a leading lawyer of Atlanta, Ga., and senior member of the law firm of Robert C. and Philip H. Alston, married Caroline Dubignon; 4. Louise, married Carl Adams, a stock broker at Prattville; 5. Unnamed Infant; 6. Philip Henry, a lawyer in the practice with his brother in Atlanta, married May Lewis; 7. William Ott, in the insurance business at Atlanta, married Margaret Wright; 8. Elizabeth Drake, resides at Clayton, unmarried; 9. Augustus Holmes, a lawyer by profession, but at present a 2nd lieutenant of infantry, U. S. Army, unmarried; and, 19. Mildred, died unmarried.

GASTON GUNTER, presiding judge of the 15th judicial circuit, died at his home in Montgomery, January 29, 1919. He was a native son of Montgomery, where he was born November 7, 1874, and was the son of William Adams and Ellen Florence (Poellnitz) Gunter, and the grandson of Charles G. and Eliza (Adams) Gunter and of Charles Augustus and Mary L. J. (Peay) Poellnitz. Charles G. Gunter, from North Carolina, was one of the early settlers of Montgomery County, and after the War of Secession

he emigrated to Brazil, South America. His son, William A. Gunter, born in Montgomery County, was a Confederate soldier, has represented Montgomery County in the Legislature of Alabama, and is the honored head of the Montgomery bar. Charles Poellnitz located in Alabama from South Carolina; was the son of Julius Von Poellnitz and Elizabeth Rogers, daughter of Col. Benj. Rogers of South Carolina. Julius Von Poellnitz was the son of Baron Charles Hans Frederick Bruno Von Poellnitz, who came to this country in 1777 with Stuben and Kosciusko and the struggling colonists in the Revolutionary War, and settled in Darlington District, S. C.

Judge Gunter was educated in the public schools of Montgomery; at the Stevens School, Hoboken, N. J.; and in the Sheffield Scientific School of Yale University, from which he was graduated in 1893 with the degree of Ph. B. He received his legal education in the law office of his father, W. A. Gunter, in Montgomery, and at the University of Virginia; and was admitted to the bar in 1895. He was alderman of the city council of Montgomery, October 1901-1906; elected president of the council, October, 1905; and was mayor of the city, 1909 to October 1910. In 1910 he became judge of the city court of Montgomery, and on the reorganization of the judiciary and the consolidation of the city and chancery courts in 1916, he was chosen one of the judges of the 15th judicial circuit in which he served until his untimely death. . He was captain of Company "K," 3d Alabama infantry, Spanish American War, June, 1898, to March, 1899. He was a Democrat; and a member of the Masonic Order, and the Order of Beavers. He was a man of great popularity, and had the esteem and respect of the entire community. He never married.

RICHARD CLAYTON HUNT, a prominent lawyer of DeKalb County, was born, February 5, 1849, at "Huntland," Franklin County, Tenn.; and died at Fort Payne, April 21, 1919. He was the son of William Blackburne and

Annie Rutledge (Clayton) Hunt, the former also born at "Huntland," where he lived until his death in 1862, was a captain in the Florida Indian war, a merchant, and farmer; grandson of David and Elizabeth (Larkin) Hunt, who lived in Franklin County, Tenn., the former a major in the war of 1812, and of Richard and Margaret (Rutledge) Clayton, who resided at Larkins' Landing, Jackson County; and great-grandson of John Hunt, the founder of and for whom the city of Huntsville was named.

He was educated in the common schools of Franklin County, Tenn. During 1869 and 1870 he read law in the office of Governor Peter Tokney at Winchester, Tenn., and was admitted to the bar at that place in 1871. He first practiced in Cogman County, Texas, for three years, and in 1875, he located at Scottsboro, Jackson County, residing there until 1900, and a year later moved to Ft. Payne, where he lived and practiced his profession until his death. He was elected solicitor of the 9th Judicial Circuit in 1899, and held the position for twelve years until 1911. Mr. Hunt was an able solicitor and a successful lawyer. He was a Democrat ad attended the State Conventions of 1890 and 1892 as a delegate, and the National Democratic convention held in St. Louis in 1888. In 1879, he joined the Knights of Honor, was dictator and grand dictator, and supreme representative to the grand lodge at Providence and Philadelphia. He was a Presbyterian.

He was married in April, 1877, to Annie, daughter of Frederick and Margaret (Kimbrough) Scruggs, of Sevier County, Tenn.

Two children were born to this union: 1. Sarah married Dr. S. J. Vann, a physician of Birmingham; and 2. Luke Pryor, a lawyer of Birmingham, whose wife is Frances, daughter of M. P. and Ida Green.

JOHN HEARST MILLER, one af the late judges of the 10th judicial circuit, was born August 1, 1858, at Oak Hill, Wilcox County, and died in Birmingham, January 2, 1919.

He was the son of Rev. Dr. John and Sarah (Pressly) Miller. His father was anative of York District, born June 24, 1825, graduated from Erskine College, Due West, S. C., which later conferred upon him the honorary degree of D. D. He came to this state when twenty years of age, settled at Oak Hill, and became pastor of the Reformed Presbyterian church there. In 1858 he was invited to become president of his Alma Mater, but declined; he served as chaplain of the "Wilcox True Blues" C. S. Army, during a portion of the War of Secession, and from 1867 to 1872 was president and proprietor of the Wilcox Female College; and died June 3, 1878, at Oak Hill, after having served his church for thirty-one years. Sarah Pressly was a native of Abbeville District, S. C., and removed with her parents in 1834 to Wilcox County. Judge Miller was the grandson of Joseph and Nancy Barnette (Neely) Miller, and of Dr. Samuel and Elizabeth (Hearst) Pressly; and the great grand-son of David and Jane (Patterson) Pressly, of Scotch-Irish stock, early seated in South Carolina from the north of Ireland. He was a brother of Benjamin Meek Miller, now judge of the 4th judicial circuit.

Judge Miller was educated in the common schools of Wilcox County, and at Erskine College, S. C., where he graduated in 1880, second in his class. He was awarded medals for debating, essay writing and proficiency in mathematics. The next year was spent at the University of Virginia where he was a law student, and from there he went to Johns Hopkins University for a special course. From 1882 to 1888, he was professor of mathematics in Erskine College from which he received the honorary A. M. degree in 1895, and with which he was likewise honored by the University of Alabama. In 1888 he returned to Alabama and located at Birmingham where he was admitted to the bar, living and practicing his profession there until his death. He served as city recorder 1891-92, and as special judge of the circuit court of Jefferson Coun-

ey, under gubernatorial appointment in 1907. At the election held in November, 1912, he was chosen judge of the city court of Birmingham for six years, and when the city court of Birmingham was abolished by the Legislature of 1915, he was elected in 1916, one of the judges of the 10th Judicial Circuit.

Judge Miller was a Democrat, and in 1892 served as chairman of the executive committee of the city of Birmingham, and was 1897-98, chairman of the Jefferson County Executive Committee.

He was a Presbyterian, and served as a ruling elder in the Birmingham church from 1890 until his death. He was a Knight of Pythias and a Knight of Honor. He was a director in the Traders National Bank, from February 1904, until his death, and also a member of the board of directors Homestead Trust Company and the Southern Indemnity Company, and held stock in several other local corporations.

On June 10, 1896, at Birmingham, he was married to Eugenia, daughter of C. W. and Margaret A. Alexander, of that city. Mrs. Miller died in March, 1899, and Judge Miller did not again marry. Their only child died at nine months of age.

PHILIP HENRY PITTS, probate judge of Dallas County, was called by death July 20, 1918, at his home in Selma. He was born January 27, 1849 on his father's plantation, three miles from Uniontown, and was the son of Philip Henry and Margaret (Davidson) Pitts, the former born at Midway, Caroline County, Va., whence he came to Alabama with his parents in 1835, grandson of Thomas Daniel and Mary (Grey) Pitts, and of Col. John H. and Martha (Caldwell) Davidson.

Judge Pitts was reared in Uniontown, and educated at the famous Old Green Springs Academy, under Prof. Henry Tutwiler. He entered the University of Alabama in 1863, and enlisted in 1864 in Shockley's Company of Ca-

dets, an organization which became the escort to General Dan Adams. He was later transferred as a private to the 9th Alabama cavalry regiment, C. S. Army. He completed the course at Davidson College, N. C., and received the A. B. degree in 1871. He taught school one year and then entered the office of Col. J. W. Bush of Uniontown, for a course of law. At the fall term of the Circuit Court in 1874 he was admiited to the bar at Marion. He at once formed a co-partnership with his preceptor and the firm of Bush & Pitts continued until 1878. In the fall of that year he was appointed solicitor for Perry County. In 1880 he was elected solicitor of the 4th judicial circuit and re-elected in 1886. He thus held the position fourteen years, and during this time displayed marked ability as a lawyer and and an advocate.

In January, 1889, he removed to Selma, and two years later formed a partnership with Col. N. H. R. Dawson, of that place, and the firm thus formed was soon regarded as one of the strongest in the State. The firm of Pitts and Pitts was organized in 1893, and continued until 1903, when he was appointed by Gov. Wm. D. Jelks, as probate judge of Dallas County, which position he held by successive re-elections until his death . He was a representative in the legislature of 1896, and a member of the constitutional convention of 1901 and chairman of the committee on representation in that body. Judge Pitts was a Democrat, and always took a prominent part in politics, being active in local and general campaigns. As a lawyer he was clear and forceful, and as a judge he was always prompt and conscientious in the execution of his duties. He was a Presbyterian, and an elder and clerk of the session of the church at Selma.

On September 17, 1872, in Lincoln County, N. C., he was married (1) to Amanda Hope, daughter of William Bain and Catherine (Hope) McLean, who was a son of Dr. William McLean, surgeon in the Revolutionary War. She died in May, 1889. In October, 1890, he married (2) Marie

Louise, daughter of Judge William M. and Maria (Massey) Byrd, the former a justice of the Supreme Court of Alabama, and a colonel in the Confederate Army. Children: 1. Dr. William McLean Pitts, married Eleanor Kervin; 2. Kittie Mims lives at Selma and is unmarried; 3. Maud Dickson lives at Selma and is unmarried; 4. Arthur Morrison married Grace Lee Fitzhugh, and resides at Selma; 5. Robert McLean, resides at Stanley, Lincoln County, N. C., and is unmarried.

NATHANIEL WILLIAMS TRIMBLE, a veteran lawyer of the Birmingham bar, died at Birmingham, March 2, 1918. He was born January 4, 1842, at Holly Springs, Madison County, Miss., and was the son of Thomas Clark and Fannie Erwin (Williams) Trimble, the formed educated at the old Nashville University, a member of the bar, and a man of culture; grandson of Judge James and Letitia (Clark) Trimble, the former born in Rockbridge County, Va., 1781, a lawyer of prominence and a circuit judge in Tennessee, and attorney general of the United States for East Tennessee in 1807, and grandson of Nathaniel Washington and Sarah Walton Williams, native of North Carolina, the former a graduate of the State University at Chapel Hill, and a lawyer, who became judge of the superior courts after his removal to Tennessee; great grandson of John and ———— (Alexander) Trimble, and of Thomas N. and Susan Randolph (Payne) Clark and of Robert and Sarah (Lanier) Williams, the last named a grandson of John Williams of Hanover, a Welch immigrant, and founder of the family in America.

Nathaniel W. Trimble was educated at home under tutors and in the private schools of Mississippi; studied law in the office of his uncle, John Trimble, in Nashville, Tenn.; upon the completion of his course was admitted to practice in 1866; and has resided at Nashville, Montgomery, Mobile and Birmingham. He was clerk of the U. S. Courts in Mobile in 1868, which position he held until 1890 when

he was appointed clerk of the U. S. Courts at Birmingham. From 1893 to 1898 he was Referee in Bankruptcy in Birmmingham. He was at one time chief supervisor of elections in Mobile. He was a Republican, a Mason, and a Presbyterian. On March 5, 1874, at St. John's Episcopal Church in Montgomery, he was married to Jennie, daughter of Seth and Mary J. (Norton) Robinson. Her grandfather Thomas Norton was of Englis descent, and it has been said that one of his sons saved the life of Charles II, at the battle of Worcester. He married Sarah, daughter of Judge Hammett of Boston, who after the death of her parents, became the ward of her brother-in-law, Judge Charles Shaw. Children: 1. Ella Dunlap, married Rev. Roy Hartman, and resides in Philadelphia; 2. Nathaniel Williams, attended the University of Alabama during 1889-1890, he served as deputy clerk, U. S. Courts, Birmingham, 1891-96; married Eleanor Offut, of Montgomery, and resided in Birmingham; 3. Duncan Dew, A. B., 1890, University of Alabama, deputy clerk, U. S. Courts, Birmingham, 1898——, and is unmarried; 4. John A,, captain 3d Alabama Infantry Volunteers, Spanish-American war, 1898 deputy clerk, U. S. Court, Birmingham, 1899, clerk G. M. Dept. Havana, Cuba, and now resides in Birmingham, unmarried; 5. Mary Edwin, married Dr. Howard Shore of Washington, D. C.; 6. Jennie, unmarried and resides in Birmingham.

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